LEGISLATIVE ACTS

OF THE

GOVERNOR GENERAL OF INDIA

IN COUNCIL

OF 1862

WITH ABSTRACTS PREFIXED, TABLE OF CONTENTS AND INDEX.

In continuation of the Acts from 1834 to 1861.

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361

CONTENTS.

TITLES OF ACTS OF 1862.

		Page.
No. 1.	An Act to revive and continue in force for a further period Act XXXIII of 1857 (to make further provision relating to foreigners)	1
2.	An Act to repeal Act XVIII of 1861 (for imposing a Duty on Arts, Trades, and Dealings)...	*ib.*
3.	An Act to amend the law relating to the use of a Government Seal	2
4.	An Act for regulating the Bank of Bengal	5
5.	An Act to provide for the payment at the Banks of Bengal, Madras, and Bombay, respectively, of moneys payable at the General Treasuries of Calcutta, Madras, and Bombay	19
6.	An Act to annex a Schedule to Act IV of 1862 (for regulating the Bank of Bengal)	23
7.	An Act to amend Act XLVI of 1860 (to authorize and regulate the Emigration of Native Laborers to the French Colonies)	*ib.*
8.	An Act to protect the personal dignity of His Majesty the King of Oude	26
9.	An Act for constituting the Secretaries and other Officers of the Banks of Bengal, Madras, and Bombay, respectively, Ex-Officio Assessors of certain of the Duties payable under Act XXXII of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices)..	29
10.	An Act to consolidate and amend the Law relating to Stamp Duties)	31
11.	An Act to amend Act X of 1860 (to amend Act VII of 1859, to alter the Duties of Customs on goods imported or exported by Sea)	84
12.	An Act to repeal Act II of 1835 so far as it relates to the Provinces of Arracan and Tenasserim	87
13.	An Act to provide for a new Silver and a new Copper Coinage	88
14.	An Act to amend Act XIV of 1859 (to provide for the limitation of suits)	92
15.	An Act to amend the Code of Criminal Procedure...	*ib.*

Page.

No. 16. An Act to limit in certain cases the amount of assessment to the Duties chargeable after the 31st day of July 1862 under Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices) and Act XXXIX of 1860 (to amend Act XXXII of 1860), and otherwise to modify the said Acts 93

17. An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure 102

18. An Act to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature 148

19. An Act to extend to the Province of Oude certain provisions of Acts XIV of 1843 and XXXVI of 1855, relating to the manufacture of contraband Salt, and to amend the last-named Act 168

20. An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court 169

21. An Act to provide for the dissolution of the Subordinate Medical Officers' Widows' and Orphans' Fund, and the distribution of the funds belonging thereto 175

22. An Act relating to Emigration to the British Colonial Dependency of Seychelles 178

23. An Act to amend Act XI of 1862 (to amend the Duties of Customs on goods imported and exported by sea) 180

24. An Act to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court) 181

INDEX.

ABETMENT.
May be charged as a substantive offence, 157.

ABETTORS.
May be tried, without previous conviction of principal, 157; or jointly with him, *ib.*; and in High Courts, if principal might, *ib.*

ACQUITTAL. *See former Conviction or Acquittal.*

ACTS, LEGISLATIVE, *amended, extended, postponed, suspended, repealed. See Regulations.*

2 1835 (Arracan and Tenasserim) partially repealed, 87.
13 ,, (Fouzdari Adawlut) repealed, 106.
15 ,, (Evidence) repealed, *ib.*
17 ,, (Silver Coinage) ss. 1, 2, partially repealed, 89.
18 ,, (Badges) repealed, 106.
21 ,, (Coinage) repealed, 89.
6 1836 (Criminal Law) repealed, 106.
30 ,, (Thuggee) repealed, *ib.*
18 1837 (Thuggee) repealed, *ib.*
21 ,, (Oaths and Declarations) repealed, *ib.*
23 ,, (Principal Sudder Ameens) repealed, *ib.*
27 ,, (Salt Duties) repealed, *ib.*
30 ,, (Persian Language) repealed, *ib.*
31 ,, (Coinage) repealed, 89.
33 ,, (Mofussil Police) repealed, *ib.*
37 ,, (Political Offences) repealed, *ib.*
3 1838 (Cochin) repealed, *ib.*
9 ,, (Fines) repealed, *ib.*
26 ,, (Sirsa) repealed, *ib.*
2 1839 (Distress and Sale) repealed, *ib.*
6 ,, (Bank of Bengal) repealed, 5.
14 ,, (Emigration) repealed as to Seychelles, 179.
18 ,, (Thuggee) repealed, *ib.*
19 ,, (Criminal Trials) repealed, *ib.*
1 1840 (Criminal Procedure) repealed, 106.
4 ,, (For preventing Affrays) repealed, *ib.*
5 ,, (Oaths and Declarations) repealed, *ib.*
11 ,, (Hard Labour,) ss. 2, 3, repealed, 107.
17 1841 (Appeals in Bengal) repealed, *ib.*
21 ,, (Nuisances) repealed, *ib.*
30 ,, (Contempts) s. 1, repealed, *ib.*
31 ,, (Criminal Appeals) repealed, *ib.*
8 1842 (Nomenclature) repealed, 107.
15 ,, (Emigration) extended, 179.
18 ,, (Criminal Revenue Procedure) repealed, 107.
4 1843 (Appeals from Justices) repealed, *ib.*
7 ,, (Provincial Courts) ss. 27, 29 to 34, 36, 37, 41 to 43, 51, 54, 55, 56, repealed, 108.
14 ,, (Contraband Salt) extended, 168.
15 ,, (Uncovenanted Agency) as to powers of Deputy Magistrates and Judicial Officers, repealed, 108.
24 ,, (Dacoity) repealed, *ib.*
3 1844 (Corporal Punishment) repealed, *ib.*
14 ,, (Sentences of Transportation) repealed, *ib.*
22 ,, (Coinage) repealed, 89.

2 1845 (Adultery) repealed, 108.
10 ,, (Police Procedure) repealed, 109.
18 ,, (Life Convicts' Offences) repealed, *ib.*
27 ,, (Assistant Magistrates) repealed, *ib.*
30 ,, (Madras Session Judges) repealed, *ib.*
7 1846 (Diet Money) repealed, 109.
10 1847 (Amending Act 30, 1836) repealed, *ib.*
20 ,, (Copyright Act) s. 4, repealed, *ib.*
1 1848 (Forgery) repealed, *ib.*
3 ,, (Thug) repealed, *ib.*
5 ,, (Mochulkas) repealed, 110.
11 ,, (Gangs of Thieves) repealed, *ib.*
19 ,, (Criminal Sentences) repealed, *ib.*
4 1849 (Criminal Lunatics) repealed, *ib.*
14 ,, (Army and Navy) repealed, *ib.*
7 1850 (Removal of Prisoners) repealed, *ib.*
13 ,, (Criminal Breaches of Trust) repealed, *ib.*
16 ,, (Restitution of Stolen Property) repealed, *ib.*
38 ,, (Prisoners' Counsel) repealed, *ib.*
4 1851 (Bombay Uncovenanted Deputy Magistrates) repealed, *ib.*
16 ,, (Receivers of Stolen Property) repealed, *ib.*
16 1852 (Supreme Court Criminal Procedure) repealed, 157.
32 ,, (Prosecution of Police Officers) repealed, 110.
1 1853 (Madras Petty Offenders) repealed, 111.
7 1854 (Warrants) partially repealed, *ib.*
10 ,, (Assistants to Magistrates, &c.) ss. 2, 3, repealed, 111, and as to warrants, *ib.*
12 ,, (Madras District Moonsiffs) repealed, 111.
21 ,, (Bank of Bengal) repealed, 5.
11 1855 (Coinage) repealed, 89.
15 ,, (Bombay R. 3, 1833) repealed, 111.
16 ,, (Badges) repealed, *ib.*
19 ,, (Madras District Moonsiffs) repealed, *ib.*
27 ,, (Bank of Bengal) repealed, 5.
36 ,, (Contraband Salt) extended, and s. 4, repealed, 168.
1 1856 (Obscene Books) repealed, 111.
2 ,, (Complaints) repealed, 112.
4 ,, (Malicious Injury to Cattle) repealed, *ib.*
17 ,, (Extra Jurisdiction) repealed, *ib.*
3 1857 (Cattle Trespass) s. 13, partially repealed, *ib.*
7 ,, (Madras Uncovenanted Agency) s. 4, repealed, *ib.*
11 ,, (Offences against the State) repealed, *ib.*
33 ,, (Foreigners) continued, 1.
7 1859 (Customs Duties) altered, 84.
8 ,, (Code of Civil Procedure) ss. 184, 185, 186, and 359 suspended in High Court, 173.
14 ,, (Limitation of Suits) postponed, 92.
23 ,, (Customs Duties) altered, 84.
24 ,, (Madras Police) s. 22 to 42, repealed, 112, and the schedule partially, *ib.*
28 ,, (Foreigners) continued, 1.
3 1860 (Sentences of Sessions Judges) repealed, 113.
10 ,, (Customs Duties) altered, 84.
17 ,, (Escape from Jail) s. 11, repealed, 113.
32 ,, (Income Tax) supplemented, 31, and limited, 91.
35 ,, (Transportation) repealed 113.
36 ,, (Stamp Duties) } repealed, 34.
40 ,, (Ditto) }
46 ,, (Emigration) applied, 23, 25.
49 ,, (Ditto) extended, 179.
51 ,, (Stamp Duties) repealed, 34.

18 1861 (Duties on Trades, &c.) repealed, 2.
22 ,, (Cattle Trespass) s. 1 to 5, repealed, 113.
25 ,, (Code of Criminal Procedure) amended, 93.
4 1862 (Bank of Bengal) amended, 23.
20 ,, (Fees and Stamp Duties) continued, 181.
21 ,, (Customs Duties) amended, *ib.*

ADHESIVE STAMP. *(Stamp Act.)*
May be applied to Receipts, Drafts and specified money orders, 35; and on transfer of joint stock shares, 36; and may be authorized on other Deeds, &c. *ib.*; and on Foreign, Bills, 36, 37.
When used on deeds, &c. to be cancelled and how, 36; subject to penalty, *ib.*; same as to adhesive stamps on bills, 37.
If omitted by sender of receipt, &c. may be affixed by other party, 43; on drafts, &c., *ib.*

ADULTERY UNDER S. 497 OF I. P. C.
Shall be prosecuted only by husband or curator appointed by him, 164; and his institution of the suit must be proved, *ib.*

AFFIDAVITS BEFORE J. P. *(Stamp Act.)*
To be stamped if not made to be used in Court of Justice, 45.

AGREEMENTS. *(Stamp Act.)*
Proper stamps on, 54, *et seq.* and what kinds exempted, 56.

AMENDMENT. *See Indictment.*

APPEALS from Division Court or Judge of High Court.
Time for, may be fixed by Rule, 174.

APPELLATE POWERS OF SUDDER.
Vested in one judge, when, 93.

ARRACAN AND TENASSERIM.
Act to repeal Act relating to, 87.

ARTS, TAXES ON. *See Duties on Arts, Trades and Professions.*

ASSESSORS. *See Income Tax.*

ATTEMPT TO COMMIT AN OFFENCE.
Conviction may be of, under charge of the commission of the offence, 156, *et seq.*

ATTORNIES.
Competent to act under Act 8, 1859, in business of pleaders, except advocacy, 174.

AUTREFOIS ACQUIT.
May be pleaded how, 164.

AUTREFOIS CONVICT.
May be pleaded how, 164.

BANK NOTES.
May be described how, in indictment, 159.

BANK OF BENGAL.
Act for Regulating, 5 *et seq.*; and for annexing a Schedule to Act for Regulating, 23.
Act to provide for payment at, of moneys payable at the general treasuries, 19.
Acts 6, 1839; 21, 1854; and 27, 1855, relating to, repealed, 5.
Corporate existence continued, *ib.*; and property of, vested in, 6; and empowered to sue and be sued, *ib.*
Capital Stock of, divisible into half and quarter shares, *ib.*; and may be increased, *ib. et seq.*
Old stock and new stock of, may be consolidated, 7; and consolidated stock may be divided into half and quarter shares, *ib.*
Shares of, to be represented by certificates, and stock by receipts, 8; and both to be personal estate, *ib.*; and transferable how, *ib.* at where, 23; and in what form, 23; and transfer of, to be registered, 8.
Registered proprietors of, to form the corporate body, 9; and several jointly entrusted to hold as joint tenants, with benefit of survivorship, *ib.*
Business of, to be managed by 9 Directors, 9, three of whom are to be appointed by Government, *ib.*

Directors of, to be 9; and how appointed, *ib.*; 2 to go out by rotation annually, *ib.*, and not be re-eligible, *ib. et seq.*; their qualifications and disqualifications, 10; no two to be of the same firm, *ib*; vacancies of, how to be filled up, *ib.*
General Meetings of, to decide by majority, 10; and who to vote, *ib*; and votes of, how to count, 11; and may be by proxy, *ib.*; and G. G. in C. may vote by proxy, *ib.*
President of, to be chosen annually by Directors, 12.
Secretary and Treasurer of, to sign accounts, receipts, &c. 12.
Seal of, regulations respecting, *ib.*
Officers and Clerks of, by whom to be appointed, *ib.*; restrictions on, 13.
Business of, to consist of what, 13, empowered to undertake the management of the Paper Currency, 14.
May not lend on its own stock, *ib*; nor on security of lands, &c., *ib.*
Books of, to be balanced half yearly, *ib.*
Dividends of, to be determined half yearly, 15.
General Meetings of proprietors of, to be yearly, 15.
Auditors of, to be elected, when and how, *ib.*
Special General Meetings of, to be called how, 16.
Empowered to establish Branch Banks, *ib.*; and take over capital of other Banks, 17.
To have a lien on its own dividends for debt of stock holder, *ib.*
Not bound to recognize executors, &c., without probate or other legal authorization, 18.
Bye laws of, how to be made, &c., *ib.*
To take over specified business of Government General Treasury, 21.

BANKS OF BENGAL, MADRAS AND BOMBAY.
Act for empowering them to take over the money business of the Government General Treasuries, 19.
Secretaries, &c. of, made *ex-officio* Income Tax Assessors, 30.

BANK OF BOMBAY.
To take over specified business of General Treasury of Government, 22.

BANK OF MADRAS.
To take over specified business of General Treasury of Government, 22.

BILLS OF EXCHANGE, Letters of Credits, *Drafts, Cheques, Promissory Notes, Hoondees and Money Orders, (Stamp Act.)*
How to be stamped, 35, 57; and what penalty incurred by not stamping, &c., 35, and interpretation of word Bill, 53.

BILL OF LADING,—*(Stamp Act.)*
How to be stamped, 58.

BILL OF SALE.—*(Stamp Act.)*
How to be stamped, 58, 61.

BOARD OF REVENUE.—*(Stamp Act).*
Empowered to mitigate penalties under Stamp Act, 41.

BOND AND OBLIGATION FOR PAYMENT OF MONEY.—*(Stamp Act).*
How to be stamped, 58.

BONDED WAREHOUSE WARRANT.—*(Stamp Act).*
How to be stamped, 73.

BRITISH TERRITORIES IN INDIA.—*(Stamp Act).*
Term explained, 54.

CHARTER-PARTY.—*(Stamp Act.)*
How to be stamped, 61.

CHEQUE, DRAFT AND MONEY ORDERS.—*(Stamp Act.)*
How to be stamped, 57.

CHILD, CONCEALING BIRTH OF,—*(See Indictment for Murder.)*
May be found, under charge of murder of child, 156.

CIVIL COURTS.—*(Stamp Act.)*
Their powers for correction of errors in Stamps, under Stamp Act, 41, *et seq.*; may receive duty and penalty where Collector might do the same, *ib.*

CODE OF CRIMINAL PROCEDURE.
Act to Amend, 93.
Act to Repeal Old Laws and Regulations. 103.
COGNOVITS.
Practice relating to, continued, 174.
COGNOVIT.—*(Stamp Act.)*
See Warrant of Attorney.
COIN
How it may be described in Indictment, 159.
COMPOSITION DEED.—*(Stamp Act.)*
How to be stamped, 61.
CONTRABAND SALT.—*See Salt.*
CONVEYANCE OF PROPERTY —*(Stamp Act.)*
How to be stamped, 61. ; if for an account, 62.
CONVEYANCE OF SHARES.—*(Stamp Act.)*
How to be stamped, 62.
CONVICTION. *See Former Conviction or Acquittal.*
CO-PARTNERSHIP DEEDS. *(Stamp Act.)*
How to be stamped, 63.
COPPER COINAGE.
Of what coins it shall consist, 90, and for what they shall be a legal tender, 91.
COPY OR EXTRACT OF DEED, &c. *(Stamp Act) See Attested Copy.*
How to be stamped, 63 ; if attested or certified, *ib.* ; and if from any Government office, 64 ; and what exempted, *ib.*
COUNTERPART OF LEASE. *(Stamp Act.)*
How to be stamped, 64.
COUNTS. *See Indictment.*
COVENANT, DEED OF. *(Stamp Act.)*
To be stamped, how, 64.
CRIMINAL Administration of Justice, in High Court, original jurisdiction.
Act for improvement of, 151, *et seq.*
As to amending Indictment, and its consequences, 152 ; and altering charge from criminal breach of trust to cheating, 153, or to theft, *ib.* ; or from theft to dishonest misappropriation, *ib.*, *et seq.* ; or to criminal breach of trust, 154.
effect of amendment, on verdict and judgment, 154.
drawing up formal record, *ib.*
9 G. 4 c. 74 ss. 10, 12, 13, 14, 15, 16, 18, 23, extended to Indian Penal Code, 162.
CRIMINAL LAW AND PROCEDURE.
Act to repeal old Regulations and Acts, 103.
CRIMINAL MISAPPROPRIATION OF PROPERTY.
Under charge of, conviction may be of theft, 157.
CULPABLE HOMICIDE. *See Indictment.*
Verdict may be for, under charge of murder, 155 ; trial for, may be where, 160.
DAMAGED OR SPOILED STAMPS.—*(See Stamps.)*
Cases in which a refund for, may be obtained, 50 ; and mode of proceeding to obtain refund for, *ib.*
DEED.—*(Stamp Act.)*
Word interpreted, 54.
How to be stamped, if not specially provided for, 65.
DEEDS OF SECURITY.—*(Stamp Act.)*
When more than one, (one being stamped with full duty), how to be stamped, 69.
DIRECTORS OF BANK OF BENGAL.—*(See Bank of Bengal.)*
DRAFT.—*(Stamp Act.)*—*See Cheque.*
DUPLICATE OF DEED, INSTRUMENT OR WRITING.—*(Stamp Act.)*
To be stamped, how, 65.
DUTIES ON ARTS, TRADES AND PROFESSIONS.
Act for imposing, repealed, 1.

EAST INDIA COMPANY, SEAL OF.
Use of, to be discontinued, 2.
EMIGRATION TO FRENCH COLONIES.
Act to Amend Act relating to, 23.; and Act 46, 1860, confirmed, 25.
Convention respecting, recited, 24, *et seq.*
EMIGRATION TO SEYCHELLES.—*(See Emigrant.)*
Act relating to, 178; not to take effect till proclaimed, 180; exempted from prohibitory Act, 179; to be regulated by Act 55, 1842, &c., *ib.*
EQUITY OF REDEMPTION, RELEASE OF.—*(Stamp Act.)*
How to be stamped, 69.
ESCAPE FROM CUSTODY.—*See Jurisdiction.*
EVIDENCE, GIVING FALSE.
How it may be charged in indictment, 158.
EXCEPTIONS UNDER INDIAN PENAL CODE.
Need not be negatived in indictment, 159, *et seq.*
EXCHANGE, DEED OF.—*(Stamp Act).*
To be stamped how, 65.
EXECUTION.
May be for substance of decree first and afterwards for costs, when, 174.
EXECUTOR, RELEASE OF.—*(Stamp Act). See Release.*
EXPORT AND IMPORT DUTIES.
Act to amend Act 11, 1862, relating to, 180.
Machinery used exclusively for specified purposes, free, *ib.*; and Chief Officer of Customs House to decide what comes within the exemption, *ib., et seq.*
On spirits used exclusively in arts, &c. to be subject to 10 per cent. *ad valorem*, 181.
EXTRACT.—*(Stamp Act.)—See Copy.*
FEES.—*(High Court).*
Act to continue, till 1st January 1864, 181.
Table of, may be established by the Court, 171.
When to be paid over to Government, 173.
FEES AND STAMP DUTIES.
Act relating to levy of, in High Court in its original jurisdiction, 170, 181.
FELONY.
Provision of 9 G. 4 c. 74 s 110 relating to, extended to offences against property under the I. P. C., 162.
FOREIGN BILLS.—*(Stamp Act.)*
What shall be deemed, 37; may be stamped with adhesive stamp, 36.
FOREIGNERS.
Act to continue for 2 years, Act relating to 1.
FORMER CONVICTION OR ACQUITTAL.
To be a bar to any subsequent trial, 162.
GENDER.
Interpreted, 54.
GENERAL EXCEPTIONS.—*(Penal Code)*
Need not be negatived in indictment, 159.
GENERAL TREASURY OF BOMBAY.
To be at Bank of Bombay, when, 21, *et seq.*
GENERAL TREASURY OF FORT WILLIAM.
To be at Bank of Bengal, after notice given, 21.
GENERAL TREASURY OF MADRAS.
To be at Bank of Madras, when, 21, *et seq.*
GOOD FAITH.—*(Penal Code.)*
As a defence under specified sections to be presumed, till the contrary appear, 160.
GIFT OR DOWER, DEED OF.—*(Stamp Act.)*
To be stamped, how, 65.
GOVERNMENT SEAL.
Act to amend the Law relating to use of, 2.
To be substituted for Seal of E. I. Co., *ib.*

GOVERNMENT SECURITIES.—*(Stamp Act.)*
Transfers of exempted from Stamp duty, 63.
GRIEVOUS HURT.
Under indictment for, accused not to be acquitted on ground that it caused death, 156 ; or that the offence was culpable homicide, *ib.*
HIGH COURT.
Empowered to establish table of fees, 171.
HIGH COURT, IN ITS ORIGINAL JURISDICTION.
Act to improve the administration of criminal justice in, 151, *et seq.*
HOONDEE.—*(Stamp Act.)*
How to be stamped, 57.
HOUSE OF CORRECTION.
What convicts shall be imprisoned in it, 165 ; and such convicts shall be delivered there by the Sheriff, *ib.* ; with the aid of constables, *ib.* ; who shall be thereupon relieved from all responsibility, *ib.* ; and the keeper of, shall be responsible, 166.
HYPOTHECATION, ACCOMPANYING BILL OF EXCHANGE.—*(Stamp Act).*
Exempt from Stamp duty, 69.
INCOME TAX.
Act for constituting Secretaries of B. Bengal, B. Bombay, B. Madras, to be ex-officio assessors, 29.
INDIAN PENAL CODE.
Certain Sections of 9 Geo. 4 c 74 extended to, 162.
INDICTMENT.—*(High Court).*
As to amending, and consequences of amending, 152.
May be amended by altering it from criminal breach of trust to cheating, 153 ; or to theft, *ib.* ; or from theft to dishonest misappropriation, *ib.*, *et seq* ; or to criminal breach of trust, 154.
As to effect of amendment of, on verdict and judgment, *ib.*
form of, for theft, 154, *et seq.* ; for murder, or culpable homicide not murder, 155 ; for abetting murder or culpable homicide, *ib.* ; for causing grievous hurt, 156.
How instruments and documents may be described in, 156 ; and how intent to defraud may be laid, *ib.*
Several offences may be charged in, 158 ; but judge may try them separately as if in separate indictment, *ib.*
For theft, may be supported by what evidence of taking, 158.
As to form of, for giving false evidence, 158, *et seq.*
Money, Bank Notes and Coin, how they may be described in, 159.
Need not negative what exceptions, 159.
Not to be held insufficient for formal errors, 163.
Objections to, for formal defects, to be taken by demurrer or motion to quash, 163.
To mean also information, &c., 167.
JURISDICTION OF HIGH COURTS.
Arises if offence was commenced or completed within, 160 ; and if either the act or any consequence of it, was within, *ib.*
As to trial of abettors, 157 ; of receivers, 161 ; for murder, 160 ; or culpable homecide, *ib.* ; for dishonestly concealing or removing property, 161 ; and for offences committed on boundaries of, 161 ; or on any voyage or journey, *ib.* ; or for prison breach or escape, 162.
JUSTICES OF THE PEACE.
To have jurisdiction as such, wherever local may be in Supreme Court, 162.
KING OF OUDE, THE.
Act to protect the personal dignity of, 26.
Exempt from Criminal jurisdiction of the Courts except for capital offences, 26.
House where King resides not to be entered for execution of process.
Mode of procedure to be followed in case of complaint against, 27 ; and in execution of process against property of, *ib.*

KING OF OUDE, THE.—(*Continued.*)
Exempted from appearance in court as a witness, 28; and as to mode taking evidence from, *ib.*; and taking affidavit of, *ib.*; and as to effect of evidence of, 29.

LAW PROCEEDINGS.—(*Stamp Act*).
Stamp duties on, 75, *et seq*; but not to apply to High Court in its original jurisdiction, 45, 171.
LEASE, COUNTERPART OF.—(*Stamp Act.*)
How to be stamped, 64.
LEASE, (*Madras.*)—(*Stamp Act.*)
How to be stamped, 67.
LEASE, PERPETUAL OR FOR LIVES, ON FINE.—(*Stamp Act*)
To be stamped, how, 66.
LEASE, RESERVING RENT.—(*Stamp Act.*)
To be stamped how, 66; exempt when, 67.
LEGAL TENDER
In silver coins, when, 90; in copper coins, when, 91.
The old coins to continue to be, *ib.*
LETTERS OF CREDIT.—(*Stamp Act.*)
How to be stamped, 57.
LETTER OF LICENSE FROM CREDITORS.—(*Stamp Act*)
How to be stamped, 67.
LETTER, OR POWER, OF ATTORNEY.—(*Stamp Act.*)
How to be stamped, 67.
LOAN BONDS.—(*Stamp Act*)
How to be stamped, 59.

MACHINERY.
Certain kinds of, exempted from customs duties, 180.
MARINE POLICY.—(*Stamp Act.*)
Person not properly stamping, to be liable to penalty, 43, 44.
MARRIAGE SETTLEMENT.—(*Stamp Act*)
How to be stamped, 73.
MEDICAL OFFICERS' WIDOWS' AND ORPHANS' FUND.
Act to provide for the dissolution of, 175, *et seq.*
MISDEMEANOUR.
Provisions of 9 G. 4, c 74, s. 110, relating to, extended to offences against property under the I. P. C., 162.
MONEY, BANK NOTES AND COIN.
How they may be described in indictment, 159.
MONTH.—(*Stamp Act*)
To mean Calendar month, 54.
MORTGAGE, DEED OF, OR CONDITIONAL SALE, ASSIGNMENT, PLEDGE OR HYPOTHECATION.—(*Stamp Act.*)
How to be stamped, 67; and acknowledgment in nature of, how, 67, 68; and how, when to secure a loan 68; and how when to secure an annuity, &c. *ib.*; when collateral to some other stamped security 69.
MORTGAGED PROPERTY.—(*Stamp Act.*)
Reconveyance of, how to be stamped, 61.
MURDER.—*See Indictment.*
Under charge of, verdict may be for culpable homicide, 156.
Under charge of murder of a child, verdict may be for concealing birth of child, 156.
Trial for, may be where, 160.
9 G 4 c. 74 s. 5, relating to, extended to murder under the I. P. C. 162.

NOTARIAL ACT.—(*Stamp Act*).
How to be stamped, 69.

NUMBERS AND GENDER.—(*Stamp Act.*)
Interpreted, 54.

OFFENCES AGAINST PUBLIC JUSTICE.—*See Evidence.*
OPTIONAL STAMP.—(*Stamp Act*).
Sum recoverable under instrument so stamped, not to exceed the amount represented by the Stamp, 44.
ORPHANS' FUND.—*See Medical Officer's Widow's and Orphan's Fund.*
OUDE.—*See King of Oude.*

PAPER.—(*Stamp Act*).
Word intrepreted, 54.
PARTITION OF ESTATE.—(*Stamp Act*).
Deed of, how to be stamped, 69.
PLEADERS.
Profession of, extended to attorney, except that of advocacy, 174.
POLICY OF INSURANCE.—(*Stamp Act*).
How to be stamped, if on Life or against Fire, 70; how if on ship, *ib.*
POST DATED BILLS OF EXCHANGE. (*Stamp Act*).
Prohibited, 38; under penalty, *ib.*
POWER OF ATTORNEY.—(*Stamp Act*).
How to be stamped, 67.
PROFESSIONS, TAXES ON—*See Duties on Arts, Trades, and Professions.*
PROMISSORY NOTE.—(*Stamp Act*).
How to be stamped, 57; if payable by instalments, 71; defect of stamp on, irremediable, 83.
PROTEST.—(*Stamp Act*).
Of Bill of Exchange, how to be stamped, 71; ship protest, how, 72.

RECEIPT FOR MONEY.—(*Stamp Act.*)
How to be stamped, 72.
RECEIVERS.
Persons charged jointly as such may be convicted of separate receiving, 157; and may be tried without previous conviction or trial of principal, 158.
RELEASE OF EQUITY OF REDEMPTION.—(*Stamp Act.*)
How to be stamped, 69.
RELEASE OF TRUSTEE OR EXECUTOR.—(*Stamp Act*).
How to be stamped, 73.
RECONVEYANCE OF MORTGAGED PROPERTY.—(*Stamp Act*).
How to be stamped, 69.
REVISION OF JUDGEMENT.—(*High Court*).
Time for applications for, in its original Civil jurisdiction, may be fixed by rule of Court, 182.
REGULATIONS, *Repealed.*
(*Bengal.*)
R. 9 1793 (Criminal Procedure) ss. 4 to 12, 14 to 18, 23, 26, 27, 29, 47 to 51, 53, 54, 56 to 58, 61, 64, 65, 74, 75, 77 and 78, repealed, 113.
,, 13 ,, (Appointment of Criminal Officers) ss. 9, 11, repealed, *ib.*
,, 22 ,, (Police) ss. 10, 16, 22, 31, 32 to 34 and 38 repealed, 114.
,, 7 1794 (Criminal Trials) repealed, *ib.*
,, 16 1795 (Criminal Trials) s. 4 c. 1, partially and 2, 4, 5 and all the following sections, repealed, 115.
,, 17 ,, (Police) ss. 10, 20, 29 to 32 and 35 repealed, *ib.*
,, 21 ,, (Criminal Law) repealed, *ib.*
,, 2 1796 (European British Subjects) repealed, *ib.*
,, 9 ,, (Prisoner's Witnesses) repealed, *ib.*
,, 11 ,, (Criminal Procedure) repealed, 116.
,, 2 1797 (Responsibility of Landholders) s. 3, repealed, *ib.*
,, 4 ,, (Criminal Procedure) repealed, *ib.*
,, 13 ,, (Powers of Magistracy) repealed, *ib.*
,, 14 ,, (Nizamut Adawlut) repealed, *ib.*
,, 3 1798 (Holidays) repealed, 117.

REGULATIONS, *Repealed.—(Bengal continued.)*
R. 2 1799 (Goal Deliveries) repealed, 117.
,, 4 ,, (State Prisoners) repealed, *ib.*
,, 8 ,, (Mahomedan Law) repealed, *ib.*
,, 10 ,, (Procedure) repealed, 118.
,, 3 1801 (Perjury) repealed, *ib.*
,, 8 ,, (Mahomedan Law) repealed, *ib.*
,, 6 1802 (Child Sacrifice) repealed, *ib.*
,, 6 1803 (Procedure) repealed, *ib.*
,, 7 ,, (Courts of Circuit) repealed, *ib.*
,, 8 ,, (Nizamut Adawlut) repealed, except ss. 6, 24 and 26, *ib.*
,, 12 ,, (Appointment of Officers) ss. 12, 14 repealed, *ib.*
,, 20 1803 (State Prisoners) repealed, 119.
,, 35 ,, (Police) s. 3 and s. 10 c. 3, 4, 5, *ib.*
,, 50 ,, (Criminal Courts) repealed, *ib.*
,, 53 ,, (Punishments) repealed, 120.
,, 3 1804 (Criminal Law) repealed, *ib.*
,, 4 ,, (Criminal Justice) s. 7 the proviso of, repealed, 121.
,, 9 ,, (Courts of Circuit) partially repealed, *ib.*
,, 3 1805 (Punishment) repealed, *ib.*
,, 7 ,, (Ceded Provinces) s. 14 repealed, *ib.*
,, 1 1806 (Jurisdictions) ss. 6 to 9 repealed, 122.
,, 12 ,, (Jurisdiction) partially repealed, *ib.*
,, 15 ,, (European British Subjects) repealed, 123.
,, 2 1807 (Perjury) repealed, *ib.*
,, 9 ,, (Police) repealed, *ib.*
,, 14 ,, (Police) repealed, *ib.*
,, 8 1808 (Punishment) repealed, 124.
,, 1 1810 (Futwa) repealed, *ib.*
,, 6 ,, (Responsibility of Landowners) s. 3 to 5, *ib.*
,, 14 ,, (Pardon and Punishment) repealed, *ib.*
,, 1 1811 (Punishment) repealed, except part of s. 10, *ib.*
,, 7 ,, (Police) repealed, 125.
,, 10 ,, (Slavery) s. 3 repealed, *ib.*
,, 14 ,, (Punishment) repealed, *ib.*
,, 3 1812 (Criminal Procedure) ss. 2 & 3, 4 partially, 6, 12 repealed, *ib.*
,, 7 1813 (Ceded Provinces) repealed, 126.
,, 9 ,, (Punishment) repealed, *ib.*
,, 8 1814 (Murder) s. 2 partially repealed, *ib.*
,, 15 ,, (Procedure) repealed, *ib.*
,, 14 1816 (Jails) s. 9, 10 repealed, *ib.*
,, 17 ,, (Police) s. 8 c. 3, 4 repealed, 127.
,, 17 1817 (Procedure) repealed, *ib.*
,, 20 ,, (Police) s. 6 c. 3 and 4, s. 8 c. 5, 6, 7, ss. 9, 12 to 20, 22 to 26 repealed, *ib.*
,, 6 1818 (Punishment) repealed 128.
,, 8 ,, (Mochulkas) repealed, *ib.*
,, 12 ,, (House Breaking) repealed, *ib.*
,, 3 1819 (Robbery) repealed, 129.
,, 7 ,, (Jurisdiction) repealed, *ib.*
,, 4 1820 (Jurisdiction) repealed, *ib.*
,, 7 ,, (Dhurma) repealed, *ib.*
,, 3 1821 (Procedure) repealed, 130.
,, 1 1822 (Procedure) repealed, *ib.*
,, 4 ,, (Procedure) repealed, *ib.*
,, 8 ,, (Jurisdiction) repealed, *ib.*
,, 2 1823 (Affrays) repealed, 131.
,, 4 ,, (Jurisdiction) repealed, *ib.*
,, 6 1824 (Procedure) repealed, *ib.*
,, 10 ,, (Pardons) repealed, 132.
,, 1 1825 (Procedure) repealed, *ib.*

REGULATIONS, *Repealed.—(Bengal continued.)*
R. 4 1825 (Mochulkas) repealed, 132.
,, 12 ,, (Jurisdiction) repealed, *ib.*
,, 16 ,, (Jurisdiction) repealed, 133.
,, 1 1828 (Sentences) repealed, *ib.*
,, 6 ,, (Affrays) repealed, *ib.*
,, 8 ,, (Affrays) repealed, *ib.*
,, 6 1829 (Jurisdiction) repealed, *ib.*
,, 7 ,, (Procedure) repealed, *ib.*
,, 12 ,, (Jurisdiction) repealed, 134.
,, 17 ,, (Suttee) ss. 4, 5 repealed, *ib.*
,, 4 1830 (Procedure) repealed, *ib.*
,, 8 ,, (Procedure) repealed, *ib.*
,, 6 1831 (Judges) ss. 12, 13 repealed, *ib.*
,, 7 ,, (Jurisdiction) ss. 5 and 6 and 7 partially repealed, 135.
,, 9 ,, (Sudder Courts) ss. 3, 4 repealed, *ib.*
,, 2 1832 (Police) ss. 2, 3 repealed, *ib.*
,, 3 ,, (Slavery) s. 2 to 2 repealed, *ib.*
,, 6 ,, (Assessors) ss, 4, 5, 6 repealed, *ib.*
,, 2 1834 (Punishment) repealed except s. 7, 136.
(*Bombay.*)
R. 2 1827 (Jurisdiction) s. 36 repealed, 144.
,, 4 ,, (Procedure s. 4 repealed, 34; and s. 34 c. 4 ss. 52, 54, 55, repealed, *ib.*
,, 11 ,, (Jurisdiction) repealed, *ib.*
,, 12 ,, (Police) repealed, except as stated, 144, 145.
,, 13 ,, (Jurisdiction) repealed partially, 145.
,, 14 ,, (Criminal Law) repealed ex. s. 3 c. 2 and ss. 20, 23, 146.
,, 15 ,, (Zemindary Police) repealed, *ib.*
,, 23 ,, (Miscellaneous) repealed, *ib*
,, 30 ,, (Poona and Ahmedabad) repealed, *ib.*
,, 17 1828 (Punishments) repealed, *ib.*
,, 3 1830 (Jurisdiction) repealed, except ss. 2, 4, 6, 7, 147.
,, 4 ,, (Jurisdiction) repealed, except s. 1 c. 1 and s. 2, 147.
,, 12 ,, (Stamps) repealed, 34.
,, 16 ,, (Self-Immolation) repealed, 147.
,, 19 ,, (Joint Session Judge) repealed, *ib.*
,, 5 1831 (Escape) repealed, *ib.*
,, 8 ,, (Jurisdiction) repealed, except, s. 1, *ib.*
,, 9 ,, (Responsibility of Landowners) repealed, *ib.*
,, 3 1833 (Police) repealed, 148.
,, 7 ,, (Trials) repealed, *ib.*
,, 8 ,, (Circuits) repealed, *ib.*
(*Madras.*)
R. 3 1802 (Jurisdiction) s. 8 repealed, 186.
,, 4 ,, (Provincial Courts) s. 20 repealed, *ib.*
,, 7 ,, (Circuit Courts) repealed, *ib.*
,, 8 ,, (Fouzdary Court) ss. 8 to 18. 20, 21, 23 to 25 repealed, *ib.*
,, 11 ,, (Law Officers) s. 8 repealed, *ib.*
,, 12 ,, (Officers) ss. 12, 13, 14 repealed, 137.
,, 15 1803 (Punishments) repealed, *ib.*
,, 1 1810 (Criminal Law) repealed, *ib.*
,, 6 1811 (Perjury) repealed, 138.
,, 6 1816 (Native Commissioners) s. 49 repealed. *ib.*
,, 9 ,, (Zillah Magistrate) repealed, except as stated, *ib.*
,, 10 ,, (Zillah Courts) repealed, except s. 40 and Appendix, *ib.*
,, 11 ,, (Police) repealed, except, ss. 8 to 10, 12, to 14, 47, 139.
,, 3 1817 (Jurisdiction) s. 2 repealed, *ib.*
,, 1 1818 (Procedure) repealed, *ib.*
,, 3 1819 (Punishments repealed, *ib.*
,, 5 ,, (Government Servants) repealed, *ib.*

REGULATIONS, *Repealed.*—(*Madras continued.*)
R. 4 1821 (Police) repealed, except s. 6, 139.
" 2 1822 (Procedure) repealed, *ib.*
" 6 " (Jurisdiction) repealed, 140.
" 1 1824 (Procedure) repealed *ib.*
" 1 1825 (Procedure) repealed, *ib.*
" 3 1826 (Perjury) repealed, 140.
" 2 1827 (Jurisdiction) repealed, except s. 3, *ib.*
" 3 " (Procedure) repealed, 141.
" 6 " (Criminal Law) repealed, *ib.*
" 8 " (Jurisdiction) repealed, as stated, *ib.*
" 10 " (Jury Trial) repealed, 142.
" 8 1828 (Corporal Punishment) repealed, *ib.*
" 9 " (Reports) repealed, *ib.*
" 6 1829 (Procedure) repealed, *ib.*
" 8 " (Criminal Law) s. 5 repealed, *ib.*
" 2 1830 (Corporal Punishment) repealed, *ib.*
" 2 1831 (Jurisdiction) repealed, 143.
" 3 " (Procedure) repealed, *ib.*
" 8 1832 (Sudder Courts) repealed, *ib.*
" 9 " (Criminal Law) repealed, *ib.*
" 13 " (Procedure) repealed, *ib.*
" 2 1833 (Corporal Punishment) repealed, *ib.*
" 3 " (Jurisdiction) s. 2 repealed, 144.
" 1 1834 (Punishments) repealed, *ib.*

SALT CONTRABAND.
Act to extend to Oude, Acts 14, 1843 and 36, 1855, 168.
Search for how to be made in Zenana, 169.

SCHEDULE TO AGREEMENTS AND OTHER INSTRUMENTS.—(*Stamp Act*).
How to be stamped, 73.

SCHEDULES TO STAMP ACT.
Schedule A., 54, *et seq*; Schedule B, 74, *et seq.*

SEAL.—*See Government Seal, East India Companys', Seal of.*

SETTLEMENT, MARRIAGE SETTLEMENT, &C.—(*Stamped Act*).
How to be stamped, 73.

SEYCHELLES.—*See Emigration to Seychelles.*
Emigrant to, not to embark, without certificate, 179; and in case of sickness on emigrant ship, emigrants may be taken to Quarantine, *ib.*, or may elect to go to Mauritius, *ib.*, *et seq.*

SHARES.—(*Stamp Act*). *See Conveyance of Shares.*

SHEET.—(*Stamp Act*).
Word interpreted, 54.

SHERIFF.—*See House of Correction.*

SHIPPING DOCUMENTS, WITH BILLS.—(*Stamp Act*).
Exempt from Stamp Duty, 69.

SILVER AND COPPER COINAGE.—*See Silver Coinage, Copper Coinage.*
Act to provide for new, 89.

SILVER COINAGE.
Of What Coins it shall consist, 89; and coins of what weight, *ib.*; and with what inscriptions, 90.
To be legal tender when and for what, *ib.*

SPIRITS, EXPORTED OR IMPORTED BY SEA.
To be subject to 10 per cent. *ad valorem*, 181.

STAMP.—(*Stamp Act.*)
Word interpreted, 53.
Form of, to be prescribed by Governor General in Council, 35.

STAMP ACT, OFFENCES AND PENALTIES.
To be sued for only by public officer, 53.
Fines for, how to be levied, *ib.*; and half may be awarded to informer, *ib.*

STAMP DUTIES.
Act to consolidate and amend the law relating to, 34, *et seq.*
Laws relating to, repealed, 34.
Schedule of (A) enacted, 35.
Adhesive Stamps may be used on Receipts, Drafts, and specified money orders, 35; and on transfer of joint stock shares, 36; and on Deeds, &c. when specially authorized, *ib.*; and on Foreign Bills, 36, 37.
Collector of, may cancel defect of Stamp, in what cases, 39; and on what terms, *ib.*; and within what time, *ib.*; or what further enlarged time, 39, 40; and may determine to cancel or not, 40; and what Stamp is requisite, *ib.*; and his powers to be subordinate to Board of Revenue, 41; and where collector may correct errors under Stamp Act, Civil Court may receive duty and penalty 41.
Powers of Civil Courts, in regard to errors in, 41; but not to apply to Bills, Receipts and money orders, 43.
Doubts respecting, may be settled by Collector, 42; and how, *ib.*
May be lowered by Governor General in Council, 46.
Officers to be appointed for collection of, 46; and their districts, *ib.*
Powers of Board of Revenue in regard to, 41, 46.
STAMP DUTIES ON LAW PROCEEDINGS.
Enacted, except in Courts established by Royal Charter, 45, shall be as in schedule B, 74.
Questions respecting, to be determined by what Court, 46; may be lowered by G. G. in C., 46.
Proceedings of High Court in its ordinary jurisdiction, exempt from, 17.
STAMPS IN HIGH COURT IN ITS ORIGINAL JURISDICTION.
Not leviable, 171, *et seq.*
STAMPS, VENDORS OF.—*See Licensed Vendors of Stamps.*
SUBORDINATE MEDICAL OFFICERS' WIDOWS' & ORPHANS' FUND.
Act to provide for the dissolution of, 175, *et seq.*
SUDDER COURT.
When consisting of only one judge, to have all the powers of 2 or more judges under Act 25, 1861, ss. 398, 401, 420, 93.
SUPREME COURTS.
Act to repeal Act 16, 1852, relating to criminal administration of justice in, 151, *et seq.*
SURETY BONDS.—*Stamp Act.*)
How to be stamped, 60.
THEFT.
Conviction may be of, under charge of criminal misappropriation of property, 157; how many and what takings may be proved under Court for, 158.
TRADES, TAXES ON.—*See Duties on Arts, Trades and Professions.*
TRAVERSE.—*See Trial.*
TREASURIES OF THE GOVERNMENT.—*See General Treasury.*
TRIAL.—*See Jurisdiction, Abettors, Receivers, Murder, Culpable Homicide.*
Not to traverse as of right, but may be postponed on grounds, 163, *et seq.*
TRUSTEE, RELEASE OF.—(*Stamp Act.*)—*See Release.*
VALUE.—(*Stamp Act.*)
Word interpreted, 53.
VENDORS OF STAMPS.
To be licensed, 47; under conditions, *ib.*; to hang up stamp Act schedules in shop, *ib.*; to indorse on specified kind of stamps sold, specified particulars, *ib.*; and be subject to punishment for false endorsement, *ib.*; not to refuse stamp on tender of firm, 48; not to receive more than price, *ib.*; on pain of punishment, *ib.*; and not to sell repealed stamps, *ib.*; not to sell stamps without license, 50, except as excepted, *ib.*
To render accounts to Collector, &c., 48; and pay balances, *ib.*; on expiration of license, to give up stamps, &c., 49; on death of, stock to be given up, *ib.*; and price paid returned, 50; sureties of, to be proceeded against when, 49, 50.

WARRANT, BONDED WAREHOUSE.—(*Stamp Act.*)
How to be stamped, 73.
WARRANTS OF ATTORNEY.
Practice relating to, continued, 174; how to be stamped, 67.
WARRANT OF ATTORNEY OR COGNOVIT.—(*Stamp Act.*)
How to be stamped, 67.
WIDOWS' AND ORPHANS' FUND.—*See Medical Officers' Widows' and Orphans' Fund.*

BENGAL SECRETARIAT LIBRARY

FOREIGNERS.

ACT No. I. OF 1862.

[*Received the assent of the G. G. on the* 13*th Feb.*, 1862.

Recites expediency of reviving and continuing Act XXXIII., 1857.

Enacts that Act XXXIII., 1857, shall be revived and continued for 2 years from the 5th December 1861.

An Act to revive and continue in force for a further period Act XXXIII of 1857 (to make further provision relating to foreigners.)

Preamble.

Whereas it was enacted by Act XXVIII of 1859, that Act XXXIII of 1857 (*to make further provision relating to foreigners*) should continue in force for two years from the 5th day of December 1859; and whereas it is expedient to revive and continue the said Act for a further period; It is enacted as follows:

Act XXXIII of 1857 revived and continued in force till the 5th December 1863.

The said Act XXXIII of 1857 shall continue in force for the period of two years from the 5th day of December 1861, and shall be deemed and taken to have had effect as if this Act had actually passed and received the assent of the Governor-General before the expiration of the said Act XXXIII of 1857, as continued in force by the said Act XXVIII of 1859.

DUTIES ON ARTS, TRADES AND PROFESSIONS.

ACT No. II. OF 1862.

[*Received the assent of the G. G. on the* 27*th Feb.*, 1862.

Recites that those duties may be equitably adopted into the financial system, but are not now required.

Repeals Act XVIII, 1861, except so far as it repeals Madras Regulations.

An Act to repeal Act XVIII of 1861 (for imposing a Duty on Arts, Trades, and Dealings.)

Preamble.

Whereas the Governor-General in Council has determined that, although the duties imposed on Arts, Trades, and Dealings by Act

XVIII of 1861, may be equitably adopted as a part of the Financial system of India whenever the exigencies of the State may render it necessary, the said duties are not now required for the purposes of the Government of India, and may be dispensed with; It is enacted as follows:

Act XVIII of 1861 repealed.

Act XVIII of 1861 is hereby repealed except so far as it repeals the Regulations and the parts of Regulations of the Madras Code therein mentioned.

THE GOVERNMENT SEAL.

ACT No. III. OF 1862.

[*Received the assent of the G. G. on the 28th Feb.* 1862.

Recites expediency of adapting the law relating to the use of a Government Seal to the present form of Government.

Provides for the use of Seals where required by law, in lieu of the old Seal of the E. I. Co.

An Act to amend the law relating to the use of a Government Seal.

Preamble.

Whereas it is expedient to adapt the law relating to the use of a Government Seal to the present form of the Government in India; It is enacted as follows:—

What Seal to be used instead of the Seal of the East India Company.

Whenever it is required by any Regulation of a local Government, or by any Act of the Governor-General of India in Council, that the Seal of the East India Company shall be affixed on behalf or by the authority of the Government to any Instrument or document, it shall be lawful, if the Seal is to be affixed on behalf or by the authority of a local Government, to affix in lieu of the Seal of the East India Company a Seal bearing the designation of such local Government, or, if the Seal is to be affixed on behalf or by the authority of the Government of India, a Seal bearing the inscription "Government of India;" and such Instrument or document so sealed shall to all intents and purposes be as valid and effectual as if the Seal so used had been that of the East India Company.

BANK OF BENGAL.

ACT No. IV. OF 1862.

[*Received the assent of the G. G. on the 28th Feb.*, 1862.

Recites that twelve months' notice has been given to the Bank to modify its power to issue Promissory Notes, and recites the expediency of modifying the Bank Acts.

1. Repeals Act VI, 1839, except in its repealing provisions, &c., and repeals Acts XXI, 1854; and XXVII, 1855, so far as they relate to the Bank of Bengal.

2—4. Continues the shareholders, &c., of the Bank of Bengal as a corporation aggregate; and (3) continues in the corporation all existing and future properties; (4) with power to sue and be sued, &c., by its corporate name.

5—6. Continues the capital of the Bank, but divides it into 10,700 shares of 1,000 rupees each, subject to be increased; (6) by the Directors from time to time and in such manner of subscription as they may think proper, and to an amount not exceeding 30,000 shares of 1,000 rupees each.

7—9. Entitles shareholders to surrender their shares and have consolidated stock instead; and (8) makes consolidated stock transferable in amounts not less than 250 rupees; (9) the shares to be represented by certificates and the stock by receipts of the Directors, either for portions or the whole of the proprietor's stock.

10. Bank stock to be personal estate.

11. Makes shares transferable by endorsement; and consolidated stock by deed of transfer, &c., but transfer not to be effectual till registered, and registration noted on certificate, &c., and all transfers to be liable to stamp duty.

12. Registered shareholders alone to be members of the body corporate, and Bank not to be bound, &c. by trusts, and joint proprietors to hold as joint tenants with benefit of survivorship. The Secretary of State for India in Council to be the proprietor of shares held by the Government of India.

13—15. The business of the Bank to be managed by nine Directors, of whom three shall be appointed and removable by the Government and the remaining six by the shareholders; (14) the present Directors to continue; and (15) two of the elected Directors to go out annually, &c., by rotation, and be re-eligible.

16. Directors to have not less than 12,000 rupees capital stock, and not to be Director or officially connected with any other Bank; and no two persons of same firm, &c., to be Directors at the same time.

17—21. In case of death, resignation, or absence for three months from Calcutta, or disqualification of any elected Directors, a special general meeting shall be called, &c., to elect a new Director, &c.; who (18) shall be elected by the majority of shareholders, &c.; (19) voting according to prescribed scale, no one being entitled to more than 7 votes and in case of joint proprietors the one first named on the register to give the vote; and (20) the Governor Gene-

ral in Council to vote by proxy signed by Secretary; and (21) proprietors by general or special proxy.

22. Directors to choose a President at first meeting every year, and in his absence the Senior Director to be Vice President.

23. Authorizes the Treasurer and Secretary or Deputy Secretary to endorse and transfer all kinds of securities held by the Bank, to draw, &c., Bills of Exchange, &c. in the authorized business of the Bank, and to sign receipts, &c., connected with Bank business.

24. The Bank seal not to be affixed except in presence of three Directors, who shall sign to authenticate the sealing, &c.

25. Empowers the Directors to appoint the necessary establishment of officers, &c. and to remove them, and fix their salaries.

26. Prohibits Secretary and Treasurer, Deputy Secretary, Head Accountant and Khizanchee from engaging in any kind of commercial business, or acting as broker or agent, &c., and those officers to give security, that of the Secretary being for not less than 50,000 Rupees.

27—28. The business of the Bank shall be lending on specified securities, &c.; drawing, &c., Bills payable in India only; granting Post Bills; buying, &c., bullion; making investments in specified securities; opening cash accounts, &c.; money agency; and realizing pledged securities: and besides (28) drawing, &c., Bills, &c., payable out of India for constituents in the Agency Department, and buying Bills to meet such drafts.

29. Authorizes the Bank to take over the business of the Government Treasury, &c.; to manage the issues, &c., of the Paper Currency, and to settle the terms with the Government.

30. Prohibits loans on its own shares and stock, and on mortgage of lands and any immoveable property.

31. Bank books to be balanced on the 30th June and 31st December; balance sheet to be signed by a majority of the Directors, and sent to Government of India, &c.

32. An account of profits to be taken on 1st January and 1st July, and dividend to be declared on basis of actual profits, out of which a reserve may be made.

33—34. General meeting of proprietors to take place on 1st Monday in August every year; at which the Directors shall submit a statement of the affairs; and (34) an auditor may be elected.

35. Special General Meeting may be called by any three Directors or ten Proprietors on giving fifteen days' notice of purpose.

36. Empowers Directors to establish Branch Banks, and necessary establishments of officers, &c., and to make regulations, &c., not inconsistent with this Act or the Bye Laws, &c.

37. Empowers the Bank to purchase, &c., the capital, &c., of any other joint stock Bank in India, and to allot, &c., the capital stock among the shareholders of such Bank, and for that purpose to create new Bank stock; the new shareholders to come in on footing of the old shareholders, &c.

38. Entitles Bank to withhold dividends from shareholders indebted to it, and after demand and default of payment to sell shares belonging to the debtor as his own, in satisfaction of debt to Bank, under specified condition.

39. In case of death of proprietor, Bank not bound to recognize representatives without probate or letters of administration.

40. Empowers the Directors to make, rescind, &c., Bye Laws, &c., to be approved by Government of India.

41—42. Interpretation clause, and (42) Act to come into operation from 1st March 1862.

An Act for regulating the Bank of Bengal.

Preamble.

Whereas the Governor-General of India in Council has, pursuant to the provisions of Act VI of 1839 (*relating to the Bank of Bengal*), given twelve months' due notice to the Bank of Bengal that the provisions of the said Act, as regards the power of the Bank to issue Promissory Notes under Section XXXI of that Act, would be modified as hereinafter appears, and it is expedient that the provisions of the said Act and of Act XXI of 1854 (*to amend the Law relating to the several Banks of Bengal, Madras, and Bombay*) and of Act XXVII of 1855 (*to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Banks*) as regards the said Bank of Bengal should be re-enacted with certain amendments and modifications hereafter contained; It is hereby enacted as follows:—

Repeal of Act VI of 1839, and Acts XXI of 1854, and XXVII of 1855 so far as they relate to the Bank of Bengal.

I. Act VI of 1839, except in so far as it repeals any prior Charter, Regulation, or Act, and except as to any act or offence done or committed, or any liability incurred before this Act shall come into operation, and Acts XXI of 1854 and XXVII of 1855, so far as they severally relate to the Bank of Bengal, are repealed from and after the coming into operation of this Act.

Present Corporation continued.

II. From and after the coming into operation of this Act and notwithstanding the repeal of the said Act VI of 1839, the present and future Proprietors of the capital stock of the Bank of Bengal shall continue to be a body corporate by the name of the Bank of Bengal with perpetual succession, and shall continue to possess

and enjoy all the rights, privileges, and immunities incident by law to a corporation aggregate.

Property of the Bank.

III. All property and securities for property, claims, and demands whatsoever now vested in or held by the said Bank of Bengal under and by virtue of the said Act VI of 1839, shall from and after the coming into operation of this Act be vested and continued in the said Bank of Bengal as and being a body corporate under and by virtue of this Act as aforesaid, and the said Bank of Bengal as such body corporate shall be subject to all debts, demands, claims, and liabilities outstanding against the said Bank at the time of this Act so coming into operation, and no suit or proceeding at law or in Equity then pending shall cease or abate in consequence of the repeal of the said Act VI of 1839 or of the continuance of the said Bank by virtue of this Act.

Bank may sue and be sued by corporate name, and hold and transfer property.

IV. The said Bank so continued as aforesaid shall and may sue and be sued by its corporate name aforesaid, and shall and may have and use such common seal as the Directors of the said Bank shall from time to time appoint, and shall be competent as such body corporate to acquire and hold, either absolutely or conditionally for a term or in perpetuity, any description of property whatever, and to transfer and convey the same.

Capital of the Bank.

V. The existing capital of the said Bank now consisting of 2,675 shares of Co.'s Rs. 4,000 each, divisible into half and quarter shares, shall continue to be the capital of the said Bank, but shall from and after the coming into operation of this Act consist of 10,700 shares of Rupees 1,000 each, divisible into half and quarter shares, and such capital shall be subject to such increase as next hereinafter mentioned.

Increase of capital.

VI. It shall be lawful for the Directors of the said Bank for the time being, from time to time, as and when they shall deem it expedient so to do, and on such previous notification as they may deem sufficient in that behalf, to increase the said capital and for that purpose to make such orders and directions for the opening of

subscriptions towards such increase of capital by the proprietors of the Bank for the time being as to them may seem fit, and also to allow to the said Proprietors such period to fill up the subscription as to them the said Directors shall seem meet, and also to prescribe in what manner and form the said Proprietors shall subscribe and pay into the said Bank the proportions of new capital which such Proprietors may respectively desire to subscribe, and also to make such orders and directions as to them the said Directors may seem fit, for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up by Proprietors for the time being, in the manner and form so prescribed. Provided always that the capital of the said Bank, including any increase therein that may be made under Section XXXVII of this Act, shall not in the whole exceed 30,000 shares of 1,000 rupees each.

Consolidated stock.

VII. It shall be lawful for any Proprietor of any 1,000 rupees share or shares or of any half or quarter share or shares in the existing capital or in the new capital so to be created as aforesaid, at any time and from time to time to surrender such share or shares or half or quarter share or shares or any of them to the Directors of the Bank for the time being, and to demand and receive from the Bank, in lieu thereof, consolidated stock to the like amount as represented by the share or shares or half or quarter share or shares so surrendered, and in like manner any Proprietor or other person subscribing for any portion of the new or increased capital under the provisions hereinbefore contained, may at his option subscribe for shares or for consolidated stock or partly for shares and partly for stock.

Consolidated stock how transferable.

VIII. The consolidated stock aforesaid shall be transferable (subject to the provisions hereinafter contained with respect to transfers) in any amount or sum not less than 250 Rupees, and the holder of any share or shares or half or quarter shares or share or of any consolidated stock, shall be a Proprietor of and interested in the capital of the Bank to the extent of the amount of the shares or half or quarter shares or stock so held by him.

Certificates of shares and receipts for stock.

IX. A certificate signed by three Directors of the said Bank shall be delivered to the Proprietor of any share or half or quarter shares of the capital of the said Bank, upon demand made by such Proprietor, and any Proprietor of more than one such share or half or quarter share, may at his option demand a certificate for each or one certificate for all his shares, and a receipt shall in like manner on demand be delivered to the Proprietor of any stock, and any Proprietor of stock may at his option demand one receipt for the whole of the stock or separate receipts for any portions of the stock so held by him.

Shares and stock to be deemed personal estate.

X. The proportion of the capital of the said Bank held by any Proprietor, whether held as shares or as consolidated stock, shall be of the nature of personal estate of such Proprietor.

Transfer of shares and stock.

XI. Shares in the capital shall be transferable by endorsement to be made on the certificates thereof respectively, under the hand of the Proprietor or his Attorney duly authorized, which endorsement shall specify the name of the person or persons to whom the said transfer shall be made, and consolidated stock shall be transferable by a deed of transfer executed by the Proprietor or his duly authorized Attorney, and in the form set forth in Schedule A hereto annexed. Provided always that no endorsement of a share, certificate, or deed of transfer of stock shall be effectual to transfer any interest in the share or stock until such endorsement or deed of transfer shall have been registered at the Bank of Bengal, and such registration shall have been noted on such endorsement or deed of transfer under the hand of an Officer appointed for that purpose by the Directors of the said Bank. Provided also that every transfer of shares or stock by endorsement or deed of transfer as aforesaid shall be liable to Stamp Duty as a transfer of shares under Clause XIX of the Schedule A to Act XXXVI of 1860, or any future Act imposing a Stamp Duty on transfer of shares.

XII. The registered Proprietors for the time being of the shares and stock into which the capital of the said Bank shall be divided, and no other persons, shall be members of the body corporate hereby continued, and the Bank shall not be bound or affected by notice of any trust to which any share or stock may be subject in the hands of the registered Proprietor thereof; and when any share or stock is vested in more than one registered Proprietor, such Proprietors shall as between themselves and the Bank, be considered as joint tenants with benefit of survivorship. The shares and stock registered in the name of the Governor-General in Council shall be deemed to belong to the Secretary of State for India in Council.

Corporation to consist of registered proprietors only.

XIII. The business of the said Bank shall be managed by nine Directors, of whom (so long as the Government of India shall hold shares or stock in the said Bank, or so long as any such arrangement or agreement with the Government as in Section XXIX of this Act mentioned, which has been already entered into or shall hereafter be entered into, shall remain in force,) three shall be appointed and removeable by the Governor-General of India in Council, and the remaining Directors, and in case the Government shall cease to hold shares or stock in the said Bank, and no such arrangement or agreement as aforesaid shall remain in force, all the Directors shall be elected and be removeable by vote of a general meeting of the Proprietors.

Directors.

XIV. The persons who at the time of this Act coming into operation shall be Directors of the said Bank, shall continue to be Directors of the said Bank, subject to removal as aforesaid and to the provisions hereinafter contained.

Present Directors to be continued.

XV. Two of the six Directors elected and to be elected by the said Proprietors shall in rotation go out of office on the second Monday in the month of December in every year, on which day a general meeting of Proprietors shall be held for the election of two Directors in their stead. Provided always

Two of the elective Directors to go out by rotation annually.

that any Directors going out by rotation as foresaid shall not be re-eligible at the election which takes place thereupon. Provided also that the rotation existing at the time of this Act coming into operation shall continue to be observed.

Disqualifications to serve as an elective Director.

XVI. *Clause* 1.—No person shall be eligible or qualified to serve as a Director by election of the Proprietors, who shall not be a Proprietor, in his own right and unincumbered, of shares or stock to the amount of twelve thousand rupees at the least of the capital of the said Bank, or who shall be a Director or Agent or Manager of any other Bank or Branch Bank within the Town or Suburbs of Calcutta, or who shall be a partner of or managing agent for or shall hold a power of procuration from any such Director, Agent, or Manager.

No two partners, &c., of the same firm to serve as Directors at the same time.

Clause 2.—No two persons who shall be partners of the same mercantile firm, or one of whom shall be the general agent of, or shall hold a power of procuration from, a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as Directors at the same time.

Vacancies among the elective Directors how to be filled up.

XVII. In case of the death, resignation, or absence from Calcutta for more than three calendar months, or disqualification under the preceding Section, or removal as aforesaid of any Director elected or to be elected by the said Proprietors, the other Directors shall, within fifteen days after such death, removal, or resignation, call a special general meeting of the Proprietors for the purpose of choosing a successor to the Director so dead, resigned, absent, disqualified, or removed, and such successor shall come into the same place in the rotation abovementioned, in which the deceased, removed, absent, or disqualified Director was.

At general meetings all matters to be decided by a majority of votes.

XVIII. At general meetings of the Proprietors, whether ordinary or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, and no person shall be allowed to vote at any such meeting in respect of any share or stock acquired by transfer, unless such

transfer shall have been completed and registered six months at the least before the time of such meeting.

XIX. At all such general meetings, the Proprietors shall vote according to the following scale :—

Scale of votes.

4	Shares of Rupees 1,000 each or consolidated stock amounting to 4,000 shall entitle to			...	1 Vote.
20	Shares or consolidated stock	do.	do.	Rs. 20,000	2 Votes.
40	,, ditto	do.	,,	40,000	3 ,,
60	,, ditto	do.	,,	60,000	4 ,,
80	,, ditto	do.	,,	80,000	5 ,,
120	,, ditto	do.	,,	120,000	6 ,,
160	,, ditto	do.	,,	160,000	7 ,,

and no Proprietor shall be entitled to more than seven votes. Provided also that when any share or stock shall be held by joint registered Proprietors, the Proprietor whose name shall appear first in the Register as one of the holders of such share or stock, shall alone be entitled to vote in respect thereof and to receive notices as if he were sole Proprietor thereof.

XX. It shall be lawful for the Governor-General of India in Council (so long as the Government shall hold shares or stock in the said Bank) to give a proxy in writing signed by one of the Secretaries to Government, to any person whom the Governor-General in Council may appoint to attend any general meeting of the Proprietors, and the holder of such proxy shall be entitled to give seven votes upon all matters or questions that may be submitted to such meeting excepting upon the election or removal of such Directors as are elected by the said Proprietors.

Government proxy.

XXI. Any Proprietor entitled to vote at any general meeting may give a proxy in writing either general or special, under his hand or the hand of his Attorney duly authorized, to any other Proprietor, and such proxy shall be produced at the time of voting, and shall entitle the person, to whom it is given, to vote on such matters as shall be authorized by the tenor of such proxy. Proxies existing and in force, at the time of this Act coming into operation shall continue in force, anything herein contained notwithstanding.

Proxies of Proprietors.

Directors to choose a President who is to have a casting vote.

XXII. At the first meeting of the Directors in every year, they shall choose a President from among themselves, and whenever the office of President shall become vacant, they shall at their next meeting choose a successor for the remainder of the current year, and during any vacancy or in the absence of the President, the senior Director in rotation shall be Vice President for the time, and such President or Vice President shall have the casting vote in all cases of an equal division of votes at meetings either of Directors or Proprietors.

Accounts, receipts, and documents of the Bank, by whom to be signed.

XXIII. The persons for the time being holding the office of Secretary and Treasurer or of Secretary alone, or of Deputy Secretary of the said Bank, are hereby severally empowered for and on behalf of the Bank to endorse and transfer Government securities, Railway shares, certificates and Bonded Warehouse warrants, and other documents of title in goods standing in the name of the Bank, and to draw, accept, and endorse Bills of Exchange, Bank Post Bills, and letters of credit, in the current and authorized business of the Bank, and to sign all other accounts, receipts, and documents, connected with such business.

Seal to be used only in presence of three Directors who shall sign in token of their presence.

XXIV. The seal of the said Bank shall not be affixed to any instrument except in the presence of three Directors, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness, and unless so signed by three Directors such instrument shall be of no validity.

Appointment, removal, and remuneration of Officers, &c.

XXV. The Directors for the time being shall have power to appoint such officers, clerks, and servants, as may be necessary to conduct the business of the said Bank, and to remove any officer, clerk, or servant of the said Bank and to fix the salaries of such officers, clerks, and servants.

Prohibits certain Officers from engaging in other commercial business as principal, agent, or broker, and requires them to give security.

XXVI. No person who shall hold the office of Secretary and Treasurer, Deputy Secretary, Head Accountant, or Khazanchee of the said Bank, shall directly or indirectly engage in any other commercial business, either on his own account individually or jointly with others, or as agent for any other persons, or act as a broker; and every person appointed to any one or more of the said offices shall give such security to the Directors for the faithful discharge of his duty as they shall think sufficient. Provided that the security to be given by any Secretary or Treasurer shall be for not less than fifty thousand rupees.

Business of the Bank specified.

XXVII. The business of the said Bank of Bengal shall consist in lending on Government Securities and shares in Railways the interest whereon shall have been guaranteed by Government, and on goods, wares, and merchandize not of a perishable kind, in drawing, discounting, buying, and selling Bills of Exchange, and other negotiable securities payable in Her Majesty's Indian Territories and not elsewhere; in granting Post Bills payable in Her Majesty's Indian Territories to order or otherwise than to bearer on demand; in buying and selling gold and silver bullion, in making investments in securities of the Government of India or in loans or Bonds secured by the Imperial Parliament on the revenues of India or in debentures of Railways guaranteed by the Government of India; in receiving deposits; in opening cash accounts and credits; in transacting pecuniary Agency business on commission; and in selling property or securities deposited in the Bank as security for loans and not redeemed, or property or securities recovered by the Bank in satisfaction of debts and claims.

Bank may draw Bills of Exchange, &c, for the use of their constituents in the Agency Department.

XXVIII. In addition to drawing, buying, and selling Bills of Exchange and granting Post Bills payable in India, it shall be lawful for the Bank to draw Bills of Exchange and grant letters of credit payable out of India for the use of their Constituents in the Agency Department, and to buy Bills of

Exchange payable out of India for the purpose of remitting funds to meet such Bills or Letters of Credit.

Bank may transact the business carried on at the General Treasury, and undertake the management of the Government Paper Currency.

XXIX. It shall also be lawful for the said Bank through their Directors, under any arrangement or agreement with the Governor-General of India in Council on behalf of the Secretary of State for India in Council, to take over and transact any part of the business of or hitherto carried on at the General Treasury (or in the Department of the Accountant General at Fort William), and to superintend, manage, and become agents for the issue, payment, and exchange of Government Currency Notes under Act XIX of 1861 (*to provide for a Government Paper Currency*) or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India, and to pay the amount of such Government Currency Notes in silver to the holders thereof on presentation and demand, and the Directors of the said Bank shall have power from time to time to arrange and settle with the Governor-General in Council as to the terms of remuneration on which such business in relation to the General Treasury, Accountant General's Department, and Government Paper Currency shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank on behalf of the Governor-General of India in Council.

Directors not to make loans on shares, &c.

XXX. The Directors of the said Bank shall not make any loan or advance on shares or consolidated stock of the said Bank, nor on mortgage, or in any other manner on the security of any lands, houses, or immoveable property or the title-deeds relating thereto.

Books to be balanced half-yearly.

XXXI. The Directors of the said Bank shall cause the books of the said Bank to be balanced on the 30th day of June and the 31st day of December in every year, or at such other periods as shall from time to time be determined by the Directors, and a settlement of the balance at every such

period signed by a majority of the Directors shall be forthwith transmitted to one of the Secretaries to the Government of India, and the Governor-General of India in Council (so long as the Government shall hold shares or stock in the said Bank, or so long as any such arrangement with the Government as aforesaid, which has already been or shall hereafter be entered into shall remain in force,) shall at all times be entitled to require of the said Directors any information touching the affairs of the Bank, and the production of any documents of the said Bank, and the said Directors shall comply with every such requisition.

Dividends to be determined half-yearly.

XXXII. An account of the profits of the said Bank shall be taken half-yearly on the 1st day of January and the 1st day of July in every year, or at such other periods as may from time to time be determined on by the Directors, and a dividend thereof shall be made as soon thereafter as conveniently may be, and the amount of such dividend shall be determined by the Directors of the said Bank, on the basis of the actual profits made by the said Bank during the six calendar months preceding the day up to which such half-yearly account shall be taken, provided that the said Directors shall in their discretion have power to set apart such portion of the said profits as they may deem expedient to be added to the reserve fund against contingencies.

General meeting of Proprietors.

XXXIII. On the 1st Monday of the month of August in every year, a general meeting of the Proprietors of the capital of the said Bank shall be held, at which the Directors of the said Bank shall submit to the said Proprietors a statement of affairs of the said Bank made up to the preceding 30th of June or to such other day as may be determined on by the Directors.

Election of Auditors.

XXXIV. At the first general meeting of the Proprietors of the Bank held after the coming of this Act into operation, one or more Auditors for the current year may be elected by a majority of votes at such meeting, and in like manner an Auditor may

be elected at the first general meeting of the Proprietors in each current year.

Convening of special general meeting.

XXXV. Any three of the Directors or any ten Proprietors of the said Bank may at any time convene a special general meeting of the Proprietors upon giving 15 days' previous notice of such meeting, and of the purpose for which the same shall be convened as well to the Directors of the said Bank for the time being, as also by public advertisement in the *Calcutta Gazette.*

Establishment of Branch Banks.

XXXVI. It shall be lawful for the Directors of the said Bank with the sanction of the Governor-General of India in Council, from time to time to form business agencies and to establish Branch Banks at such places as they may deem advantageous to the interests of the Bank, with full power to the said Directors to appoint during pleasure such agents, clerks, and servants and either with or without local Boards of Directors or management and under such regulations, restrictions, and conditions as to them may seem fit, and from time to time to vary such regulations, restrictions, and conditions, and the said Agents and other Officers shall give such security for their good behaviour as the Directors may require; and it shall also be lawful for the Directors from time to time, under any arrangements or agreements with the Governor-General in Council on behalf of the Secretary of State in Council, to provide for the conduct and transaction by any such Branch Bank or Banks of any part of the business of or hitherto conducted at the local Government Treasuries and for the superintendence, management, and agency of the local issue, payment, and exchange of any Government Currency Notes, provided that such arrangements and all regulations and directions given by the said Directors to the Agents or Managers of such Branch Banks, touching the management thereof or the description of business to be undertaken thereby, shall not contain anything inconsistent with or contrary to the provisions of this Act, or of any Bye-laws, Regulations, or orders which may be in force for the time being under the 40th Section of this Act.

Bank may take over capital and business of any other Bank, and for that purpose increase its own capital.

XXXVII. It shall be lawful for the Directors of the said Bank, from time to time, to enter into negotiations for and to purchase and take over the capital, assets, and business of any other Bank within Her Majesty's Indian Territories, of which the capital is divided into shares, and to grant and allot to the Shareholders or Proprietors in such Bank in full of their respective right, title, and interest in such capital, assets, and business a sufficient number of shares in the capital stock of the said Bank of Bengal, (which number shall be determined by the Directors), and for that purpose to increase the capital stock of the said Bank by the issue of such number of shares as may be so determined on. The Shareholders or Proprietors of the purchased Bank to whom such new shares shall be allotted, shall be proprietors of the Bank of Bengal and be in all respects in the same position as if they had respectively subscribed and paid for the shares so allowed to them. Provided always that the business so purchased shall after the purchase be carried on by the said Bank of Bengal with, and subject to, the several restrictions contained in this Act.

If any Proprietor becomes indebted to the Bank.

XXXVIII. If any of the said Proprietors shall become indebted to the said Bank, it shall be lawful for the said Bank to withhold payment of the dividends on the share or shares or consolidated stock of such Proprietor registered as his own property, and not as held in trust or as executor or administrator, until payment of such debt, and to apply such dividends towards payment thereof, and after demand and default of payment, and notice in that behalf given either to such Proprietor, or his constituted agent or by public advertisement in the *Calcutta Gazette*, it shall be lawful for the said Bank to refuse registration of the transfer of any such share or shares or stock of such Proprietor, until payment of such debt, and if the same shall remain unpaid for the space of six calendar months after such notice, to advertise for public sale and to sell such share or shares or stock or so many or so much as may be necessary, and to apply the proceeds thereof towards payment of such debt, with interest at the rate of six per cent. per annum, paying over

the surplus, if any, to such Proprietor or to his lawful representative.

Recognition of legal representatives of deceased proprietors.

XXXIX. Whereby the death of any proprietor his share or shares or stock shall devolve on his legal representative, the Bank shall not be bound to recognize any legal representatives of such deceased Proprietor other than a person who has taken out Probate to the Will or Letters of administration to the estate of such deceased Proprietor from the Supreme Court of Judicature at Fort William, or who has obtained a certificate in respect of the estate of such deceased Proprietor under Act XXVII of 1860 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)*, describing such shares or stock from a Court of competent jurisdiction within the Presidency of Fort William.

Power of Director to make, alter, and rescind Bye-laws, &c.

XL. It shall be lawful for the Directors for the time being of the said Bank to make and pass Bye-laws, Regulations, and orders for the good government, and in reference to the mode of conducting the business of the Bank, and such regulations and orders from time to time to modify, rescind, and vary, and it shall further be lawful for the Proprietors of the said Bank at any general meeting, whether ordinary or special, to pass resolutions and frame and from time to time rescind and vary Bye-laws and Rules for the direction of the affairs of the Bank, and the same shall be binding on the Directors and Officers and on the Proprietors of the Bank, until rescinded or varied at any subsequent general meeting, provided always that no Bye-law, regulation, or order, or alteration or rescission of any Bye-law, Regulation, or order, whether passed by the Directors or by the Proprietors at a general meeting, shall be of any validity except in so far as the same shall be consistent with the provisions of this Act, and shall be approved by the Governor-General of India in Council, such approval to be signified in writing under the hand of one of the Secretaries to the Government of India.

Construction.

XLI. In the construction of this Act, words in the singular number shall include the plural, words in the plural shall include the singular, and words in the masculine gender shall include the feminine, except where the contrary appears by the context.

Commencement of Act.

XLII. This Act shall come into operation on the 1st day of March 1862.

BANKS OF BENGAL, MADRAS AND BOMBAY, AND GENERAL TREASURIES.

ACT No. V. OF 1862.

[*Received the assent of the G. G. on the 28th Feb.*, 1862.

Recites that an agreement has been entered into by the Bank of Bengal to take over the pay and receipt business of the General Treasury, &c.; and that a treaty is going on between the Banks of Madras and Bombay respectively, and the Governments to take over Treasuries of those Presidencies, &c., and that divers Government Securities, &c., are payable at the General Treasuries annually.

1—2. From 1st March 1862 till fourteen days after notice to the contrary, the Government Treasury will be at the Bank of Bengal, where (2) presentment of securities when necessary shall in future be made instead of at the General Treasury.

3—4. After notice in Madras and Bombay respectively the General Treasuries of those Presidencies will be at the Bank of Madras and Bombay respectively, where (4) presentment of securities when necessary shall be made instead of at the General Treasury.

5. This Act not to render presentment necessary, if it would not have been necessary before

An Act to provide for the payment at the Banks of Bengal, Madras, and Bombay, respectively, of moneys payable at the General Treasuries of Calcutta, Madras, and Bombay.

Preamble.

Whereas, under the provisions of Act XXIV of 1861, (*to enable the Banks of Bengal, Madras and Bombay, to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has entered into an agreement with the Secretary of State

for India in Council through the Governor-General of India in Council that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William, as consists in receiving and paying money on behalf of the Supreme Government, and the Government of Bengal shall be carried on and transacted by the said Bank, subject to the provisions of the said agreement, and to such orders and directions with regard to receipts and payments as may from time to time be given to the said Bank by the Governor-General in Council, or any of the Officers of the Government of India authorized in that behalf.

And whereas the Governor-General in Council has given notice in the *Calcutta Gazette* that the Treasury of the Secretary of State for India in Council and of Her Majesty's Indian Government at Calcutta shall, from and after the 1st day of March 1862, be established at the Bank of Bengal.

And whereas the Bank of Madras and the Bank of Bombay are in treaty with the Governor in Council of Madras and the Governor in Council of Bombay respectively, for the purpose of entering into similar agreements, and it is probable that such agreements will be shortly executed, and that similar notice to that hereinbefore mentioned will be given by the Governors in Council of Madras and Bombay in regard to the Banks of Madras and Bombay.

And whereas divers promissory notes and negotiable securities and other obligations for the payment of money made by or on behalf of the Secretary of State for India in Council or by the Governor-General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, on behalf of the East India Company and of the Secretary of State for India in Council are made payable at the General Treasury of Fort William in Bengal, the General Treasury at Madras, and the General Treasury at Bombay respectively.

And whereas divers other securities and other obligations are made payable to the secretary of State for India in Council or to the said Governor-General in Council, or to the Governors in Council of Madras or of Bombay at the said General Treasuries

of Fort William in Bengal; Fort St. George and Bombay respectively;

It is therefore enacted as follows:

On and after 1st March 1862, all sums payable by or to Government to be payable at the Bank of Bengal instead of at the General Treasury at Calcutta.

I. On and after the 1st day of March 1862, and until the expiration of fourteen days after notice shall be given in the *Calcutta Gazette* by the Governor-General of India in Council that the Treasury of the Government will be no longer held at the Bank of Bengal, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor-General of India in Council or the Government of Bengal on behalf of the Secretary of State for India in Council, at the General Treasury of Fort William in Bengal, shall be payable by or to the Secretary of State in Council or by or to the Governor-General of India in Council or the Government of Bengal respectively on behalf of the Secretary of State in Council, at the Bank of Bengal instead of at the General Treasury at Calcutta.

Presentment of promissory notes, &c., at the Bank of Bengal.

II. Whenever presentment of any promissory note, security or obligation for payment or for any other purpose at the General Treasury of Fort William in Bengal would, before the said 1st day of March 1862, have been necessary or sufficient, presentment for such purpose at the Bank of Bengal shall be necessary or sufficient, as the case may be, on and after the said 1st day of March 1862, and until the expiration of fourteen days after such notice as in the 1st Section mentioned shall have been given.

Payment at the Banks of Madras and Bombay of sums payable by or to Government at the General Treasuries at Madras and Bombay.

III. If the Governors in Council of Madras and of Bombay respectively shall give notice in the *Government Gazettes* of their Presidencies respectively, that the Banks of Madras and Bombay respectively have entered into agreements or arrangements with the Secretary of State for India in Council through the said Governors in Council, for the purposes mentioned in the preamble of this Act, under the provisions of the said Act XXIV of 1861, and that from and after a date to be specified in such notice, the Treasury of the Secre-

tary of State for India in Council, and of Her Majesty's Indian Government at Madras and Bombay respectively, shall be established at the Banks of Madras and Bombay respectively, all sums payable by or to the Secretary of State for India in Council, or by or to the Governor of Madras in Council or the Governor of Bombay in Council on behalf of the Secretary of State for India in Council, at the General Treasury at Madras, or at the General Treasury at Bombay respectively, shall from and after the date specified in such notice, and until the expiration of fourteen days after notice shall have been given by the said Governors in Council respectively that the Treasury of the Government will be no longer held at those Banks respectively, be payable by or to the Secretary of State in Council, or by or to the Governor of Madras in Council, or by or to the Governor of Bombay in Council, on behalf of the Secretary of State in Council, at the Bank of Madras or the Bank of Bombay respectively, instead of at the General Treasury at Madras or the General Treasury at Bombay.

Presentment of promissory notes, &c., at the Banks of Madras and Bombay.

IV. In such case, whenever presentment of any promissory note, security, or obligation for payment or for any other purpose, at the General Treasuries at Madras or Bombay respectively, would have been necessary or sufficient, if such notice had not been given, and this Act had not been passed, presentment for such purpose, at the Banks of Madras and Bombay respectively, shall be necessary or sufficient, as the case may be, on and after the date specified in such notice by the Governors in Council of Madras and Bombay respectively, and until the expiration of fourteen days after such notice as aforesaid that the said Treasury will be no longer held at those Banks respectively shall have been given.

Proviso as to presentment at the several Banks.

V. Nothing in this Act shall render necessary the presentment at the Banks of Bengal, Madras and Bombay respectively of any security or other obligation which it would not have been necessary to present at the General Treasuries of Bengal, Madras, and Bombay respectively, if this Act had not been passed.

BANK OF BENGAL.

ACT No. VI. OF 1862.

[*Received the assent of the G. G. on the 12th March*, 1862.

Recites omission to annex to Act IX 1862, Sec. XI, the Schedule for transfer of consolidated stock, and supplies omission.

An Act to annex a Schedule to Act IV of 1862 (for regulating the Bank of Bengal.

Preamble.

Whereas the Schedule referred to in Section XI of Act IV of 1862 (*for regulating the Bank of Bengal*) as Schedule A thereto annexed, has not been annexed thereto: and it is expedient to annex such Schedule to the said Act; It is enacted as follows:—

Schedule A of Act IV of 1862.

The Schedule hereto annexed, and marked A, shall be deemed and taken to be the Schedule referred to in Section XI of the said Act IV of 1862 as Schedule A thereto annexed, and to be annexed to and to form part of the said Act.

SCHEDULE A.

I A. B. of do hereby transfer to C. D. of consolidated stock of the Bank of Bengal to the amount of Rs. standing in my name, to hold unto the said C. D. his executors, administrators, representatives, or assigns, subject to the conditions on which I hold the same at the time of the execution hereof

Dated the day of

EMIGRATION TO FRENCH COLONIES.

ACT No. VII. OF 1862.

[*Received the assent of the G. G. on the 12th March*, 1862.

Recites alteration in the convention between France and Great Britain since Act XLVI, 1860, was passed; sets out one altered article and two new articles, one for exchange of ratifications, the other for extension of the convention to Reunion.

Declares and applies Act XLVI, 1860, to convention as altered.

An Act to amend Act XLVI of 1860 (to authorize and regulate the Emigration of Native Laborers to the French Colonies.)

Preamble.

Whereas since the passing of Act XLVI of 1860 (*to authorize and regulate the Emigration of Native Laborers to the French Colonies*) the Convention therein recited between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French has been varied in the following particulars: that is to say, by substituting for Article XXVI in the said Convention as so recited in the said Act, the following Article:

"ARTICLE XXVI.

The present Convention shall begin to take effect on the 1st of July 1862; its duration is fixed at three years and a half. It shall remain in full force if notice for its termination be not given in the course of the month of July of the third year, and then notice can be given only in the course of the month of July of each succeeding year.

In case of such notice being given it shall cease eighteen months afterwards.

Nevertheless the Governor-General of British India in Council shall, in conformity with the Act of the 19th of September 1856, relative to immigration to British Colonies, have the power to suspend at any time emigration to any one or more of the French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the Emigrants immediately upon their arrival or during their residence therein or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage.

In case, however, the power thus reserved to the Governor-General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favor of the said Indian subjects until they shall either have been sent back to their own

country, or have renounced their right to a return passage to India."

And also by the addition of the two following Articles which were not comprised in the Convention or recited in the said Act, that is to say—

"ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African Emigrants should be introduced into the Island of Re-union, that Colony has, since last year, had to obtain laborers from India and China; and Her Britannic Majesty having, by Convention signed on the 25th of July 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Re-union to recruit six thousand laborers in Her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith with regard to the said Colony of Re-union.

The present Additional Article shall have the same force and validity as if it were inserted word for word in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention."

And whereas the said Convention, with such alterations and additions as aforesaid, together with such additional Article, has been duly signed, ratified, and confirmed:

It is declared and enacted as follows:—

Act XLVI of 1860 to be applicable to the Convention as signed and ratified.

All the provisions of Act XLVI of 1860 (*to authorize and regulate the Emigration of Native Laborers to the French Colonies*) shall be and remain in full force notwithstanding that the Convention therein recited had been so altered and added to before the same was signed or ratified as aforesaid: and all such provisions, in so far as the same relate to the Convention recited in the said Act, shall be deemed to apply and shall apply to the said Convention as signed and ratified as aforesaid, together with the additional Article thereof.

THE KING OF OUDE.

ACT No. VIII. OF 1862.

[*Received the assent of the G. G. on the 27th March,* 1862.

Recites expediency of partially exempting the King of Oude from the jurisdiction of the Courts of Law.

1. Exempts the King from the jurisdiction of the Criminal Courts except for offences punishable with death under I. P. C.

2. The King not to be arrested without warrant, and no arrest or search to be made in house in which the King resides except in the presence, &c, of the Political Agent

3. On complaint against the King for any offence except offences punishable with death, the Political Agent may enquire and report to Government of India, which may issue commission to try, and court of trial to report its judgment to Government, &c.

4 Prohibits issue of all process by any Court, civil, revenue, or criminal against the King or his property, except by consent of the Government of India.

5. Exempts the King from personal appearance as a witness or from making affidavit.

6—7 But interrogatories and cross-interrogatories may be sent to the Political Agent who shall exhibit them to the King and take down His Majesty's answers, which shall be returned to the Court, &c.; and (7) affidavits may be obtained from the King in the same manner.

8. Except by the King's consent no person but the Agent shall be present when His Majesty is examined.

9 The answers and affidavits shall be subject to same objections as if taken in Court.

10 Act not to continue after death of His Majesty

An Act to protect the personal dignity of His Majesty the King of Oude.

Preamble.

Whereas it is expedient, with a view to protect the personal dignity of the King of Oude, in accordance with the promise made to His Majesty on the part of the British Government, that His said Majesty should be partially exempted from the jurisdiction of the Civil, Revenue, and Criminal Courts; It is enacted as follows:—

King of Oude exempted from Jurisdiction of Criminal Courts except for capital offences.

I. His Majesty the King of Oude is hereby declared to be, and is, exempt from the jurisdiction of the Criminal Courts, except in regard to offences punishable with death under

the Indian Penal Code. Except for such offences, no Criminal Court or Magistrate shall enquire into any complaint, or issue any process against His said Majesty.

Police not to arrest the King without warrant, nor to enter the dwelling-house of the King except in the presence and with the sanction of the Agent.

II. No Police Officer or other person shall arrest His said Majesty without warrant, and no Police Officer or other person, whether charged with the execution of a warrant or not, shall, for the purpose of arresting any person or searching for anything, enter into or remain in any house in which His Majesty may at the time be residing, except in the presence and with the sanction of the Officer appointed to be Agent with His Majesty on the part of the British Government.

Issue of Commission for the trial of other than capital offences.

III. If any complaint be made or information preferred against His said Majesty for any offence other than the offences excepted in Section I. of this Act, the Officer appointed to be Agent with His said Majesty may enquire into the case and make a report thereon to the Governor-General in Council, and the Governor-General in Council, on receipt of any such report, may issue a Commission for the trial of such offence, and may vest the said Commission with any of the powers vested in any Court by the Code of Criminal Procedure. Provided that, in case of conviction, the said Commission shall not pass sentence, but shall report its judgment to the Governor-General in Council, who shall thereupon give such directions in respect to the custody of the person of His said Majesty or the disposal of His property, as the exigency of the case may seem to require.

No writ or process to be issued against the person or property of the King without the consent of the Governor-General in Council.

IV. No writ or process shall at any time be sued forth or prosecuted out of any Civil, Revenue, or Criminal Court against the person, goods, or property of His said Majesty, unless such writ or process shall be so sued forth or prosecuted with the consent of the Governor-General in Council first had and obtained, such consent to be testified by the signature of a Secretary to the Government of India, and any writ or process which shall at any time be sued forth or prosecuted against the person, or

goods, or property of His said Majesty, without such consent as aforesaid, shall be utterly null and void.

The King exempted from appearance in Court as a witness.

V. His said Majesty shall not be required to appear personally as a witness in any Court, or before any commissioner appointed by any Court to be examined or make affidavit when his evidence or affidavit is required in any Civil, Revenue, or Criminal suit or proceeding.

Mode of taking the King's evidence.

VI. When the evidence of His Majesty is required in any such suit or proceeding, the Court or the party requiring the same shall cause to be prepared interrogatories in writing for the examination of His said Majesty. If the case is one in which any other party in such suit or proceeding would, by law, have a right to cross-examine, such party shall be at liberty to prepare cross-interrogatories. The interrogatories and cross-interrogatories (if any) shall be transmitted to the Officer appointed to be Agent with His said Majesty, who shall exhibit the same to His said Majesty and take down in writing His Majesty's answers thereto given on solemn affirmation. The interrogatories and cross-interrogatories (if any), with the answers thereto, shall be returned to the Court before whom the suit or proceeding is pending, together with a certificate from the said officer appointed to be Agent of the answers of His said Majesty having been duly taken.

Mode of taking the King's affidavit.

VII. When any affidavit is required to be sworn by His said Majesty in any suit or proceeding, such affidavit shall be taken and sworn before the said Officer appointed to be Agent, who shall return such affidavit with a certificate of its having been duly sworn to the Court or officer before whom the same is to be used.

Examinations to be taken in private.

VIII. Except with the consent of His said Majesty, no person other than the said Officer appointed to be Agent shall be entitled to be present when His said Majesty is being examined on interrogatories or sworn to any affidavit under the provisions of this Act.

IX. The answers to interrogatories or affidavit of his said Majesty taken and sworn under the provisions of this Act shall be admissible in evidence, and subject to the same objections as if such answers or affidavit had been taken or sworn in open Court or under a Commission.

Examination, &c., taken under the Act, admissible in evidence.

X. This Act shall not continue in force after the death of His said Majesty.

Duration of Act.

INCOME TAX.

ACT No. IX. OF 1862.

[*Received the assent of the G. G. on the 27th March*, 1862.

Recites the transfer of the Government Treasuries to the Banks of Bengal, Madras and Bombay, and that interest, &c., subject to income tax is payable at those Banks, and that therefore it is expedient to constitute the specified Bank officers ex-officio Assessors.

1—2. Constitutes the Secretary and Treasurer or Secretary or Treasurer, Deputy Secretary and Accountant respectively of the Banks to be ex-officio Assessors under Income Tax Act; and (2) divests of that office the Government Sub-Treasurers.

3. Act to take effect from 1st March 1862.

An Act for constituting the Secretaries and other Officers of the Banks of Bengal, Madras, and Bombay, respectively, Ex-Officio Assessors of certain of the Duties payable under Act XXXII of 1860, (for imposing Duties on profits arising from Property, Professions, Trades, and Offices.)

Preamble.

Whereas the Treasuries of the Secretary of State for India in Council and of Her Majesty's Indian Governments at Calcutta, Madras, and Bombay respectively have been established under orders from the Governor-General of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, duly notified in the *Government Gazettes* at those places, at the Bank of Bengal, the Bank of Madras, and the Bank of Bombay respectively.

And whereas the interest on divers securities of the Government of India and Annuities payable out of the revenues of India, and divers other yearly sums mentioned in Section XXVI of

Act XXXII of 1860 (*for imposing Duties on Profits arising from Property, Professions, Trades, and Offices*) payable by the said Government or out of the Public revenues of the said Government are, by virtue of the said orders, payable at the said Banks respectively.

And whereas it is expedient that the Secretaries and Treasurers, Deputy Secretaries, and Accountants of the Banks of Bengal, Madras, and Bombay respectively should be constituted Ex-Officio Assessors for executing the said Act XXXII of 1860 for the purpose of assessing and discharging the duties thereby imposed in respect of the interest and yearly sums so payable at the said Banks as aforesaid in the place of the Sub-Treasurers.

It is therefore enacted as follows:—

Certain Officers of the said Banks constituted Ex-Officio Assessors under Act XXXII of 1860.

I. The persons for the time being holding the office of Secretary and Treasurer, or of Secretary alone, or of Treasurer alone, or of Deputy Secretary, or of Accountant of the Bank of Bengal, of the Bank of Madras, and of the Bank of Bombay respectively, shall, so long as the Government Treasuries at Calcutta, Madras and Bombay respectively shall continue to be held and established at those Banks respectively, be severally Ex-Officio Assessors for executing Act XXXII of 1860 for the purpose of assessing and discharging the Duties thereby imposed in respect of interest on securities of the Government of India and of all annuities payable out of the revenues of India and in respect of all other yearly sums (other than the salaries or pensions mentioned in Sections XXVII, XXVIII, XXIX, XXX, and XXXI of the said Act) payable by the said Government or out of the public revenues of the said Government at the Government Treasuries of Bengal, Madras, and Bombay respectively, and shall severally have and exercise in regard to the said Duties all the powers and authorities vested by the said Act in the Ex-Officio Assessors named in Section XXVI thereof.

Sub-Treasurers to cease to be Ex-Officio Assessors whilst Government Treasuries are held at the said Banks.

II. So long as the Government Treasuries at Calcutta, Madras, and Bombay shall continue to be established and held at the Banks of Bengal, Madras and Bombay respectively, the Sub-Treasurers of the said Presidencies of Bengal, Madras, and Bombay respectively shall cease to be Ex-Officio Assessors for

executing the said Act for the purpose of assessing and discharging the Duties upon the interest and yearly sums mentioned in Section I of this Act, and in respect of which the Secretaries, Treasurers, Deputy Secretaries, and Accountants of the said Banks are hereby constituted Ex-Officio Assessors.

Commencement and construction of Act.

III. This Act shall take effect from the 1st day of March 1862, inclusively of that day, and shall be read and taken as part of the said Act XXXII of 1860.

STAMP DUTIES.

ACT No. X. OF 1862.

[*Received the assent of the G. G. on the 17th April,* 1862.

Recites expediency of consolidating and amending the law relating to stamp duties.

1. Repeals Bombay Reg. XII, 1830, and Acts XXXVI 1860, XL 1860, and LI 1860, except so far as they repeal other Acts or Regulations, and except as to Deeds, &c. and proceedings anterior to this Act, and to such this Act not to apply.

2. Prescribes the stamps for deeds, instruments and writings as specified in Schedule A.

3. Imposes a penalty for unstamped or insufficiently stamped papers of kinds provided for in Schedule A.

4. Empowers the G. G. in C. to prescribe the form, size and material of stamps to be used, and other details.

5—8. Adhesive stamps for prescribed amount may be used on receipts and drafts or orders for the payment of money: also (6) on transfers of shares in joint stock;—and (7) also for deeds and any other kinds of instruments when authorised by the G. G. in C., and (8) persons putting adhesive stamps on any instruments whatever, must mark so as to cancel them, under pena ty in case of default.

9—10. Foreign Bills defined; and if drawn on India to be stamped, if out of India may have adhesive stamps put on them; and (10) bills purporting to be foreign Bills drawn out of India shall be stamped as such.

11. Imposes on holder of foreign Bills for acceptance, &c. in India the obligation of impressing the proper adhesive stamp before presentation, under a penalty; also of cancelling the stamp; and disentitles holder of Bill without cancelled stamp to recover thereon.

12—13. Imposes penalty on person drawing inland Bill or set of Bills without the proper stamp; and (13) on person drawing post-dated Bill, or taking, &c. such Bill.

14. Invalidates for all purpose of transfering any right, and for purpose of evidence in any Court, or of registration, unstamped and insufficiently stamped Deeds, &c., but may be used on criminal proceeding.

15—18. With respect to unstamped or insufficiently stamped deeds instruments and writings in the II. Section of the Act provided for, if there was no intention to evade the proper duty, the Collector may if applied to within six weeks after execution of the deed, &c., put on the proper stamp on payment of duty and double the deficient amount as a penalty, or may remit penalty if the want of proper stamp were unavoidable or of necessity: and (Clause 2) after the six weeks and within four months may do the same on payment of duty and penalty, and after the four months on payment of duty and twenty-fold penalty; and (Clause 3) makes it the duty of the Collector to determine whether the requisite stamp shall be impressed; and (Clause 4) he shall decide in case of doubt, what stamp is proper; (Clause 5) empowers the Board of Revenue to correct orders of the Collector under the Section and (Clause 6) to remit or diminish penalty; and (16) the stamps impressed under the powers given by Section XV, shall be doomed the proper stamps in all Courts of Justice; and (17) in all cases in which deeds, &c., might be stamped under Section XV. Courts may receive the duty and penalty and then admit the deeds, &c. in evidence, and (17 Clause 2) directs an account to be kept of duty, &c. so received, &c.—; and (18) except in cases above provided for no instrument, &c. shall be stamped after execution.

19—21. Entitles parties in doubt as to proper amount of stamp in cases not under Sections XV., XVII., to obtain the opinion of the Board of Revenue on payment of a fee, and (20) all costs to be paid by applicant, and (21) Government and Government Officers to be under no responsibility for loss, &c., except in case of gross negligence, &c.

22. Bills of Exchange, money orders and receipts cannot be stamped under Sections XV., XVII.

23. Payment of penalty under Sections XV., XVII. shall stand in place of all liability for penalty, except in case of pre-imposed penalty.

24. One anna stamps may be affixed on draft or order by receiver, if not by sender, and charged to sender, without prejudice to liability of latter to penalty.

25. In case of Marine Policy in set of 2, if only one is executed on stampt paper, the offender to forfeit not exceeding 1,000 rupees.

26. Modifies Act VIII., 1859 S. 98 as to refund of stamp duty in case of compromise of suit: refund to be half, unless decree required.

27. Under deeds, &c., on which an optional stamp may be affixed, the amount recoverable shall be limited to the sum for which such stamp &c., would be sufficient if not optional.

28. Affidavit not made for immediate purpose of being filed in a Court shall not be filed, read or used, &c., unless stamped according to Schedule A.

29. Persons receiving payment, to give stamped receipt if required; and the stamp on Bills, &c., for payment of money to be borne by drawer.

30. Enacts Schedule B, as to stamps on law proceedings, saving all existing cases saved from stamps by special regulation, &c.

31. Makes the Schedules to the Act of same effect as if contained in body of the Act.

32. Questions of valuation for purpose of fixing the amount of stamp required in law proceeding to be decided in Court in which proceeding is brought.

33. Empowers Governor-General in Council to lower the duties by order in the *Gazette* either throughout or in any part of British India.

34. Empowers the local Government to appoint Officers for collection of stamp duty.

35. All orders of Collectors to be open to revision by Board except orders under Sections XV., and certain specified orders under Sections L.

36—37. Authorizes Local Government to license stamp venders, and fix conditions, and to revoke license: (37) license, with schedules of the Stamp Act to be stuck up in vender's shop.

38—39. Venders of stamps to endorse on them date of sale, name of purchaser, and his own signature, under penalty; and (39) knowingly writing a false name or date, to be liable to a higher penalty.

40—42. Vender bound under penalty to supply every stamp which he has on tender of price; and (41) to take the price only in currency, &c.; and (42) not to take more than the value, &c.

43. Vender subject to penalty, if he sells old stamps after use of new ones is enjoined.

44. Entitles stamp officer to examine accounts and stock of stamp vender, and gives remedy for recovery of balance of stamps.

45—47. Subjects to fine, any stamp vender who does not on the determination of his license make up his account with Government, together with unsold stamps, and pay any balance due; such fine to be in addition to any other criminal or civil liability; and (46) is a similar provision in regard to person having the effects of the vender, on his death; and (47) applies to the surety of the vender.

48. Prohibits sale of stamps by unlicensed persons, except by purchaser of stamp for use, and except adhesive stamps, and stamps for Bills, Receipts, Promissory Notes, orders for money, agreements for loans, &c., and Bills of Lading.

49. Authorizes refund of value of stamps in possession of licensed vender at time of his death.

50. Provides for exchange of new stamps for stamps damaged, spoiled, or unfit for use, and stamps rendered of no avail by failure of the transaction, &c.; but (Clause 2) the application to be made to the Collector by whom the original stamps were issued and within six months after the original stamp was spoiled, damaged, or rendered useless; and (Clause 3) whenever a new stamp may be given in exchange, the value may be returned instead.

51. In case of sale of any property or right title or interest in property not being joint stock shares transferrable by endorsement, the full and true consideration shall be stated in words in the body of the conveyance, or at the foot in case of conveyance in form prescribed by any regulation, under penalty specified against seller and purchaser; and (Clause 2) another penalty against person knowingly, &c. inserting untrue statement.

52—53. Offences against this Stamp Act to be prosecuted only by the Collector or other authorized officer; and (53) such offences may be tried by every officer exercising the powers of a Magistrate or subordinate of 1st class, &c.

54—55. Fines under sentence of Magistrate may be levied by distress and sale of offenders' goods; and (55) not more than one-half may be awarded to informer.

56. Interprets the words, "stamp;" "value;" "Bill of Exchange;" "Deed;" "Paper;" "Month;" "British Territories in India;" and makes number and gender apply to singular and plural, and males and females.

57. Act to come into operation 1st June 1862.

Schedule A specification of deeds, instruments and writings requiring to be stamped. Schedule B specification of Law proceedings and stamps required on them. Special Rules for Bengal and for Bombay.

An Act to consolidate and amend the Law relating to Stamp Duties.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Stamp Duties; It is enacted as follows:—

Repeal of Laws.

1. From the time when this Act shall come into force, Regulation XII 1830 of the Bombay Code (*for modifying the rule provided in Clause first, Section III Regulation IV* 1827, *for valuing lands in Civil actions*), Act XXXVI of 1860 *to consolidate and amend the law relating to Stamp Duties.*) Act XL of 1860 (*to amend Act XXXVI of* 1860), and Act LI of 1860 (*further to amend Act XXXVI of* 1860 are repealed, except in so far as they rescind other Acts or regulations or parts of other Acts or Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force. In respect of any such Deed, Instrument, or Writing, the provisions of the Acts and Regulations which were in force at the time such Deed, Instrument, or Writing shall have been made or executed, or such proceeding or matter shall have taken place,

shall be applicable in the same manner as if this Act had not been passed.

Stamp Duty payable under Schedule A.

II. For every Deed, Instrument, or Writing which shall be executed from the time when this Act shall come into force, and which shall be of any of the kinds specified as requiring Stamps by the Schedule A annexed to this Act, there shall be payable to Government a Stamp Duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

Penalty for drawing, &c. unstamped or insufficiently stamped Bill of Exchange, &c.

III. If any person shall draw, or, except as provided in Section XXIV of this Act, shall accept, endorse, negotiate, pay, or receive payment of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar Instrument, or if any person shall make, execute, sign, or be a party to any Deed, Instrument, or other Writing, engrossed on unstamped or insufficiently Stamped paper or other material, which should bear a Stamp of the value set forth in Schedule A annexed to this Act, every such person so offending, shall (unless in any case in which a higher penalty is imposed by this Act) forfeit a sum not exceeding one hundred Rupees, or a sum equal to ten times the value of the Stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

Governor-General in Council to prescribe the form, &c. of Stamps to be used.

IV. The Governor-General of India in Council shall prescribe the form, size, and material of the Stamps to be used, and the mode and place of impressing, affixing, or denoting thereupon the value of the same under the provisions of this Act, and may from time to time alter and vary the orders which he may so issue. The orders made by the Governor-General of India in Council under this Section shall be published in the Official Gazettes of the several Presidencies and places in which such orders are to be in force.

Receipt Stamps how to be denoted.

V. The Duty imposed by this Act on Receipts and Drafts or Orders for the payment of money on demand and bearing the date on which the Draft or Order is made, may be

denoted by an adhesive Stamp affixed to the paper upon which such Instrument is written.

Adhesive Stamps may be used for transfers of shares of Banking Corporations, &c.

VI. The Duty chargeable on the transfer of a share of any Banking Corporation or Joint Stock Company, which by any law applicable to such Corporation or Company can be effected by simple endorsement, may be denoted by an adhesive Stamp affixed thereto.

Governor-General in Council may authorize the use of adhesive Stamps for other Deeds, &c.

VII. It shall be lawful for the Governor-General of India in Council, by an order to be published in the Official Gazette, to authorize the use in the whole or in any part of the British Territories in India to be mentioned in such order, of adhesive Stamps for any Deeds, Instruments, or Writings required to bear a Stamp, other than the Instruments mentioned in the last two preceding Sections.

Obliteration of adhesive Stamp when used.

VIII. In any case where an adhesive Stamp shall be used as hereinbefore authorized, the person making the Deed, Instrument, or Writing to which such Stamp is affixed, shall, before the Deed, Instrument, or Writing shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name or the initial letters of his name, or in such other manner as to show that such Stamp has been made use of, and so that the same shall not admit of being used again; and if any person who shall write or give any Receipt or discharge or make or sign any Draft or Order, or any other Deed, Instrument, or Writing with an adhesive Stamp thereon when an adhesive Stamp is allowed to be used, shall not *bonâ fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

Stamps on Bills of Exchange, &c.

IX. The Duty imposed by this Act on Foreign Bills of Exchange shall be paid on account of all Bills drawn within, but payable out of, the British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be accepted, endorsed, transferred, paid, or otherwise negotiated within those Territories wheresoever the

same may be payable; and the duty so imposed on Bills drawn out of the British Territories in India, may be denoted by adhesive Stamps to be affixed to such Bills as hereinafter directed.

Bills purporting to be drawn abroad deemed for the purposes of this Act to be so drawn.

X. Every Bill of Exchange which shall purport to be drawn at any place out of the British Territories in India shall, for all the purposes of this Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same shall have been drawn within those Territories.

The holder of a Bill drawn out of the British territory to affix an adhesive Stamp thereon before negotiating it.

XI. The holder of any Bill of Exchange drawn out of the British Territories in India, and not having a proper Stamp affixed thereon as herein directed, whether the same be a single Bill or one of a set of two or more Bills, shall, before he shall present the same for acceptance or for payment, or endorse, transfer, or in any manner negotiate such Bill, affix thereto a proper adhesive Stamp for denoting the Duty by this Act charged on the amount of such Bill when drawn singly, and the person who shall present such Bill for acceptance or payment, or who shall endorse, transfer, or in any manner negotiate such Bill, shall, before he shall deliver the same out of his hands, custody or power, cancel the Stamp so affixed by writing across the Bill as his endorsement, his name or the name of his firm and the date of the day and year on which he shall so write the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such manner as to show that the Stamp has been made use of, and so that the same shall not admit of being used again; and if any person shall present for acceptance or for payment, or shall accept, pay, or endorse, transfer, or in any manner negotiate any such Bill as aforesaid, whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person, who ought as directed by this Act to cancel such Stamp in manner aforesaid, shall refuse or neglect so to do, every such person so offending in any such case shall be

Penalty for negotiating such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

liable to the penalty prescribed in Section III of this Act; and no person who shall take or receive from any other person any such Bill as aforesaid either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose whatever, unless at the time when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereto and cancelled in the manner thereby directed.

Penalty for drawing Bills purporting to be drawn in a set of two or more and not drawing the whole number of the set.

XII. If any person shall, within the British Territories in India, draw any Bill of Exchange, purporting to be drawn in a set of two or more, and shall not draw at the same time on paper duly stamped as required by this Act the whole number of Bills of which such Bill purports the set to consist, he shall forfeit a sum not exceeding one thousand Rupees.

Penalty for drawing, &c. post-dated Bills of exchange.

XIII. If any person, in order to avoid the payment of the duty prescribed by Schedule A annexed to this Act, shall make or draw any Bill of Exchange bearing a date subsequent to the date on which such Bill is actually made or drawn, or if any person, knowing that such Bill has been so post-dated, shall take or receive such Bill, or shall accept, pay, endorse, transfer, or in any manner negotiate the same, every such person so offending shall forfeit a sum not exceeding five hundred Rupees.

Effect of a Writing not duly Stamped.

XIV. Except as otherwise provided by this Act, no Deed, Instrument, or Writing, for which any Duty shall be payable under Section II of this Act, shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon in any such Court or by any public Officer, or shall be registered in any public Office, or authenticated by any public Officer, unless such Deed, Instrument, or Writing be upon a Stamp, or when an adhesive Stamp shall be allowed to be used, shall bear a Stamp of a value not less than that indicated

to be proper for it by the Schedule A annexed to this Act. Provided that every Deed, Instrument, or Writing liable to Stamp Duty, shall be admitted as evidence in any Criminal proceeding, although it may not have the Stamp required by this Act impressed thereon or affixed thereto.

Proviso.

XV. *Clause* 1.—If any Deed, Instrument, or Writing requiring to be stamped under Section II of this Act, shall have been executed on paper not bearing the proper Stamp, the Collector of Stamp Revenue of the District, if satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp did not arise from any intention to evade payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing or otherwise to defraud the Government, may, on payment of the proper Stamp Duty, or if the Deed, Instrument, or Writing shall be insufficiently stapmed, on payment of such sum as with the amount of the Stamp upon such Deed, Instrument, or Writing, shall suffice to complete the prescribed amount and, as a penalty, double the amount required to make up the same, direct that such Deed, Instrument or Writing be duly stamped; provided that such Deed, Instrument, or Writing be presented to such Collector for the purpose of having the proper Stamp affixed to or impressed upon it within six weeks from the date of its execution. If the Collector be satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp arose solely from urgent necessity or unavoidable accident, he may remit the penalty prescribed by this Section.

Deeds inadvertently executed on paper not bearing proper Stamp may be duly stamped on payment of proper Stamp Duty and penalty, if brought to the Collector within six weeks.

Remission of penalty.

Clause 2.—If any Deed, Instrument, or Writing requiring to be stamped under Section II of this Act, which shall have been executed on unstamped or insufficiently stamped paper, shall be brought to such Collector for the purpose of being properly stamped after six weeks from the date of its execution, but within

Penalty if executed on unstamed or insufficiently stamped paper and brought to be stamped after six weeks of execution but within four months of that date.

four months from that date, such Collector, if satisfied that the omission or neglect to execute such Deed, Instrument, or Writing on paper bearing the proper Stamp, did not arise from any intention to evade the payment of the Stamp Duty prescribed by this Act for such Deed, Instrument, or Writing, or otherwise to defraud the Government, may, on payment of a sum sufficient to make up the proper amount of Stamp Duty, and as a penalty treble the amount required to make up the same, direct that the requisite Stamp be impressed on such Deed, Instrument, or Writing; or if such Deed, Instrument, or Writing shall not be brought to such Collector until after the expiration of four months from the date of its execution, the requisite Stamp may be ordered to be impressed on payment of the sum required to make up the proper amount of Stamp Duty, and as a penalty twenty times the amount required to make up the same.

Penalty if brought after four months.

Clause 3.—It shall be the duty of the Collector of the Stamp Revenue of the District, to determine whether the requisite Stamp shall be impressed on any Deed, Instrument, or Writing falling under the last two preceding Clauses, which shall have been executed on unstamped or insufficiently stamped paper.

Collector to determine whether, on payment of penalty, a Deed, &c., executed on unstamped or insufficiently stamped paper shall be stamped.

Clause 4.—Whenever a doubt shall arise respecting the proper amount of the Stamp to be impressed under this Section on any Deed, Instrument, or Writing, the Collector of Stamp Revenue of the District shall determine the amount of Stamp to be impressed upon such Deed Instrument, or Writing.

Collector to decide the proper amount of Stamp Duty to be impressed upon any Deed, &c. under this Section.

Clause 5.—In any case falling within this Section in which it shall appear to the Board of Revenue or the Chief Controlling Revenue Authority that a Collector of Stamp Revenue has directed an improper Stamp to be impressed upon any Deed, Instrument, or Writing, such Board or other Authority as aforesaid, may, if the Stamp ordered by the Collector to be impressed upon such Deed, Instrument, or Writing shall not have

Board of Revenue, &c. may in certain cases order the proper Stamp to be impressed.

already been impressed thereupon, order the proper Stamp to be impressed upon such Deed, Instrument, or Writing upon payment of the proper amount of Stamp Duty and the penalty to which the holder of such Deed, Instrument, or Writing is liable under Clause 1 or Clause 2 of this Section.

Mitigation or return of penalty under this Section.

Clause 6.—The Board of Revenue or other Chief Controlling Revenue Authority may, upon petition, order any penalty imposed under this Section to be mitigated, and if paid may order the whole or any part of it to be returned.

The Stamp impressed under the preceding Section to be taken to be the proper Stamp.

XVI. The Stamp which shall be impressed under the last preceding Section, shall be taken in any Court of Justice to be the proper Stamp required by this Act for the Deed, Instrument, or Writing on which the same is impressed.

In cases falling under Section XV, Civil Courts may receive in evidence unstamped or insufficiently stamped Deeds, on payment of the proper Stamp Duty and penalty.

XVII. *Clause* 1.—In any case in which a Stamp might be impressed under Section XV of this Act, a Civil Court may receive in evidence any Deed, Instrument, or Writing not bearing the Stamp prescribed by Schedule A annexed to this Act, on payment into Court of the proper amount of Stamp Duty to be determined by the Court, whose decision on the point shall be final, together with the penalty required by the said Section.

Procedure on payment under preceding Clause.

Clause 2.—An entry of such payment setting forth the amount thereof shall be made in a book to be kept by the Court, and shall also be endorsed on the back of the Deed, Instrument, or Writing, and shall be signed by the Court. The Court shall, at the end of every month, make a return to the Collector of the Stamp Revenue of the District, of the money (if any) which it has so received, distinguishing between the sums received by way of penalty and the sums received by way of Duty, stating the number and title of the suit, and the name of the party from whom such money was received, and the date, if any, and description of the document, for the purpose of identifying the same; and the Court shall pay over the money so received to such Collector or to such person as he may appoint

to receive the same. Such Collector or other proper Authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement hereinbefore mentioned, cause it to be stamped thereon with a Stamp of the amount paid into Court on account of such Duty. The provisions contained in Clause 6 Section XV of this Act as to the mitigation or payment of penalties paid to the Collector, shall be applicable to penalties paid into Court under this Section.

No unstamped or insufficiently stamped Deed, &c. to be stamped, except as aforesaid.

XVIII. No Deed, Instrument, or Writing executed on unstamped or insufficiently stamped paper, shall be stamped at any time after the execution thereof, except as hereinbefore provided.

Procedure (in cases other than those provided for in Sections XV and XVII) for determining the proper amount of Stamp Duty to be impressed on any Deed.

XIX. When in any case other than the cases provided for in Sections XV and XVII of this Act, any person shall entertain any doubt respecting the proper amount of Stamp Duty for any Deed, Instrument, or Writing, he may apply to the Board of Revenue or the Chief Controlling Revenue Authority, either directly or through the Collector of Stamp Revenue of the District, for an adjudication with a view to remove such doubt, and shall, at the same time, pay a fee of ten Rupees, and thereupon such Board or other Authority as aforesaid shall determine the amount of Stamp which such Deed, Instrument, or Writing should bear, and on payment thereof, shall cause such Deed, Instrument, or Writing to be impressed with such Stamp, and an additional Stamp denoting that such adjudication fee has been paid. A Deed, Instrument, or Writing so stamped, shall be received in evidence as properly stamped in any Court of justice.

Cost of transmitting Deed, &c. to be stamped, by whom to be paid.

XX. The cost of transmitting by post any Deed, Instrument, or Writing required to be stamped under any of the foregoing Sections of this Act, and the cost of registering the same at the Post Office for transmission, shall, in all cases, be borne by the party applying to have such Deed, Instrument, or Writing stamped.

XXI. The Government shall not be responsible for any loss or damage which shall occur in respect of any Deed, Instrument, or Writing entrusted to the Collector of Stamp Revenue of the District for the purpose of being stamped, and no person employed by the Government in the Stamp Department shall be responsible for any such loss or damage, unless such person shall wilfully, fraudulently, or by gross negligence, cause such loss or damage.

Government not responsible for loss or damage to Deed, &c.

XXII. The provisions of Sections XV and XVII of this Act shall not extend to Bills of Exchange or other forms of Orders for money, or to Receipts for money.

Provisions of Sections XV and XVII not to extend to Bills of Exchange, &c.

XXIII. The payment of any penalty under Section XV or Section XVII of this Act shall exempt the person paying the same from any further penalty for any such omission or neglect as is therein described, and if any other such penalty shall already have been imposed, the same shall be taken so far as it goes in reduction of any penalty under the said Sections.

Exemption from further penalties than those prescribed in Section XV or XVII.

XXIV. When any Draft or Order for the payment of money on demand chargeable with the Stamp Duty of one anna shall come to the hand of any person unstamped, it shall be lawful for such person to affix thereto the necessary adhesive Stamp and to cancel the same in the manner required by this Act, and upon so doing to charge the Duty against the person who ought to have paid the same, or to deduct such Duty from the sum so directed to be paid, and such Draft or Order shall, so far as relates to the Stamp Duty chargeable thereon, be good and valid; but this shall not relieve any person from the liability to the penalty which he may have incurred by issuing the said Draft or Order unstamped.

Persons receiving unstamped Draft or Order for payment of money on demand, may affix Stamps thereto.

XXV. If any person shall, within the British Territories in India, execute any Policy of Marine Insurance, purporting to be drawn in a set of two, and shall not at the same time execute on paper duly stamped as

Penalty for executing or receiving only one number of a Policy of Marine Insurance purporting to be drawn in a set of two.

required by this Act, the two numbers of which such Policy purports the set to consist, every such person so offending shall forfeit a sum not exceeding one thousand Rupees.

Refund in certain cases of half the amount of Stamp Duty on plaint in the event of agreement, compromise, or satisfaction.

XXVI. In modification of so much of Section 98 of the Code of Civil Procedure as declares that on the application of the plaintiff reciting the substance of any agreement, compromise, or satisfaction, in accordance with which a suit is adjusted and disposed of, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff, auhorizing him to receive back from the Collector the full amount of Stamp Duty paid on the plaint, if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been examined,—it is enacted that if such application shall have been presented before the suit is called up for the settlement of issues, or in suits in which the summons, to the defendant shall be for the final disposal of the suit, as directed in Section 41 of the said Code, and in Section 9 of Act XLII of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts established by Royal Charter)* before the hearing of the suit has commenced, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff, authorizing him to receive back from the Collector half the amount of Stamp Duty paid on the plaint. Provided that no such certificate shall be granted if the adjustment between the parties be such as to require a decree to pass, on which process of execution can be taken out, or in any appealed suit.

What sum recoverable under a Writing bearing an optional Stamp.

XXVII. No larger sum shall be recoverable in any Court of Justice by reason of any Deed, Instrument, or Writing, for which an optional Stamp is indicated to be proper by the Schedule A annexed to this Act, than the largest sum for which, if specially stated in a Deed, Instrument, or

Writing of the same denomination, the Stamp actually used under the option so given would be of sufficient value. And no such Deed, Instrument, or Writing shall be held by any Court of Justice to be valid in respect to any sum of money larger than that for which the Stamp on the said Deed, Instrument, or Writing would be sufficient.

Stamp on certain affidavits.

XXVIII. No Justice of the Peace or any Officer, before whom an affidavit not made for the immediate purpose of being filed, read, or used in any Court of Justice, may be taken, shall receive or attest such affidavit, unless it be written on a Stamp of not less than the value prescribed by the Schedule A annexed to this Act.

Expense of providing Receipt Stamps, &c.

XXIX. Every person receiving payment of any sum of money, the receipt for which under this Act requires a Stamp, shall (if required) give a receipt, bearing the proper Stamp indicated by this Act, and shall bear the expense of furnishing the same, and in case of refusal, shall be liable to a penalty not exceeding one hundred Rupees. The expense of providing the Stamp of any Bill of Exchange, Letter of Credit, Draft, Cheque on a Banker or other person, Promissory Note, or other Order or Obligation for the payment of money made or drawn in the British Territories in India (not being a Bond, Instrument, or Writing bearing the attestation of one or more witnesses), shall be borne by the person making or drawing the same.

Stamp Duties under Schedule B.

XXX. Except in any Court of Justice established by Royal Charter, or in any Court of Small Causes established within the local limits of the jurisdiction of any such Court, no Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B annxed to this Act, shall be filed, exhibited, or recorded in any Court of Justice or Government Office, or shall be received or furnished by any public Officer, unless such Instrument or Writing be upon a Stamp of a value not less than that indicated to be proper for it by the said Schedule B.

Provided that nothing in this Act shall be held to repeal any special provision in the Code of Civil Procedure or in any other Act or Regulation for the use of plain or unstamped paper in any judicial proceeding, unless such provision shall be expressly repealed by this Act.

Proviso.

XXXI. Every provision contained in the Schedules annexed to this Act, shall be of the same force as if it were contained in the body of the Act.

Effect of provision contained in the Schedules.

XXXII. All questions relating to the valuation of claims for the purpose of determining the amount of Stamp Duty chargeable under Schedule B annexed to this Act on any petition of plaint or appeal, shall be decided by the Court in which such petition of plaint or appeal is filed, subject to any appeal to which the orders of such Court are open.

Decision of questions regarding valuation of claims.

XXXIII. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, direct that in the whole or in any part of the British Territories in India to be specified in such order, such lower rates of Stamp Duty as he shall prescribe, shall be taken on all or any of the Deeds, Instruments, or Writings, specified in the Schedules annexed to this Act, or altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be notified in the Official Gazette.

Governor-General in Council may lower rates of Stamp Duty in any District, or altogether exempt the same, &c.

XXXIV. The local Government shall appoint Officers for the collection of the Stamp Revenue, and shall assign Districts to such Officers.

Appointment of Officers for collection of Stamp Revenue.

XXXV. All orders passed by the Collectors of Stamp Revenue shall be open to revision by the Board of Revenue or other Chief Controlling Revenue Authority, except orders

Orders of Collectors of Stamp Revenue open to revision by Board of Revenue, &c.

passed under Section XV of this Act when the Collector shall allow a Deed, Instrument, or Writing not bearing the proper Stamp to have the proper Stamp impressed upon it, and orders passed under Section L of this Act, when the Collector shall allow a new Stamp or the value in money to be given in lieu of any Stamp which shall have been damaged, soiled, or rendered unfit for use. All such orders shall be final and shall not be open to revision.

Licensed Stamp Venders.

XXXVI. The local Government may license or cause to be licensed Venders of Stamps, and may direct how and under what conditions Stamps may be supplied to such Venders for sale, and what accounts of such Stamps shall be kept by them. The license may be for any time, and may, at any time, be revoked by the authority granting the same.

Licenses and Schedules to be stuck up in Stamp Vender's shop.

XXXVII. Every Vender of Stamps shall, at all times, have his license, together with the Schedules annexed to this Act, in the Vernacular language of the District, stuck up in a conspicuous situation in the place where he sells the Stamps, on pain of a fine not exceeding fifty Rupees.

Endorsement of Stamps by Venders.

XXXVIII. Every Vender of Stamps shall write on the back of every Stamp which he sells, except adhesive Stamps and Stamps used for Receipts, or for Bills of Exchange, Promissory Notes, Drafts, or other Orders for money, Agreements for Loans falling under Article 13 of the Schedule A annexed to this Act, or Bills of Lading, the date of sale, the name of the person to whom the Stamp is issued, and his own ordinary signature, on pain of a fine not exceeding one hundred Rupees.

Penalty for Vender writing a false name or date.

XXXIX. Any Vender who shall knowingly write a false name or date on the back of any Stamp which he is required to endorse under the last preceding Section, shall be punished by a fine not exceeding five hundred Rupees, or imprisonment with or without hard labor not exceeding three months, or both.

XL. Every Vender of Stamps shall, without delay, deliver any Stamp which he has in his possession for sale, on demand by any person tendering the value in any currency which the Vender is duly authorized to receive in payment for Stamps, on pain of a fine not exceeding one hundred Rupees.

Delay by Stamp Vender in issuing Stamps.

XLI. Any Vender who demands or accepts for any Stamp any consideration other than the value thereof in such currency as he is duly authorized to receive in payments for Stamps, shall be punished by a fine not exceeding one hundred Rupees.

Stamp Vender accepting any consideration other than that authorized.

XLII. Any Vender who demands or accepts, for any Stamps, any consideration exceeding the value of such Stamp, shall be punished by imprisonment with or without hard labor for a period not exceeding six months, or by a fine not exceeding ten times the value so demanded or accepted, or by both, and it shall be in the discretion of the Court or Officer passing the sentence, to direct the value of the excess to be refunded out of such fine to any person from whom such excessive consideration may have been accepted.

Stamp Vender accepting any consideration exceeding the value of the Stamp.

XLIII. Any Vender or other person who, after any period which may have been appointed by the Governor-General of India in Council for the commencement of the use of new Stamps, sells any old Stamps, shall be punished by a fine not exceeding one hundred Rupees.

Illegal sale of old Stamps.

XLIV. If any Vender refuse or omit to render any account required from him, or to permit the Collector of the Stamp Revenue of the District, or any Officer duly authorized by such Collector to inspect his accounts or to examine the store of Stamps in his possession, it shall be lawful for such Collector to proceed against such Vender for the recovery of the value of the balance of Stamps standing against him in the books of such Collector, or for the recovery of the balance of money standing against such Vender in the said books, in the same manner as Collectors of

Stamp Vender refusing or omitting to render accounts.

Land Revenue are authorized by law to proceed against persons owing revenue or rent to Government.

Delivery of Stamps, &c. by Vender on determination of his license.

XLV. Any Vender who, upon the determination, revocation or resignation of his license, does not, within such reasonable time as shall have been prescribed by the Collector of the Stamp Revenue of the District, make over to some Officer duly authorized to receive the same, an account of the Stamps entrusted to him for sale on the part of Government, together with any such Stamps remaining, or which ought to be remaining for sale in his hands, and any balance of cash which may be due from him to Government in respect of such Stamps, shall be liable to a fine not exceeding five hundred Rupees; provided always that no Vender shall, by the payment of such fine, be exempt from any punishment provided by law for any embezzlement of which he shall have been guilty, or from such proceeding as by the last preceding Section the Collector of the Stamp Revenue of the District is empowered to adopt for the recovery of the value of any Stamps or balance of cash remaining in the hands of or standing against such Vender.

On death of Stamp Vender, unsold Stamps, &c. to be delivered to a duly authorized Officer.

XLVI. Upon the death of any Vender, the person in possession of such Vender's effects shall upon demand being made by the Collector of Stamp Revenue of the District or any Officer duly authorized by him, make over within a reasonable time to such Collector or Officer as aforesaid any Stamps which the deceased Vender shall have received for sale on the part of Government and shall not have sold at the time of his death, and any account kept by such deceased Vender in respect to such Stamps, of which Stamps and accounts such person as aforesaid may have the possession, or be able to obtain the possession, on pain of a fine not exceeding five hundred Rupees.

Proceeding against sureties of Stamp Vender.

XLVII. The Collector of Stamp Revenue of the District may call upon the surety of a Vender of Stamps, to make good the value of the balance of Stamps standing against such Vender in the books of such Collector, or the balance of money standing against such Vender in the books of such Collector, and

on his failure to do so, may proceed against such surety for the recovery of the value of the balance of Stamps, or for the recovery of the balance of money as aforesaid, in the same manner as Collectors of Land Revenue are authorized by law to proceed against the surety of a person owing revenue or rent to Government.

Unlicensed sale of Stamps.

XLVIII. No person, not being a licensed Vender of Stamps duly appointed, shall sell any Stamp unless it has been in an authorized manner obtained for use and not for sale, under pain of a fine not exceeding one hundred rupees; provided that nothing in this Section shall be held to apply to any adhesive Stamp, or to any Stamp used for a Receipt, Bill of Exchange, Promissory Note or other order for money, or to an agreement for a Loan falling under Article 13 of the Schedule A annexed to this Act, or to a Bill of Lading.

If licensed Vender die or his license expire or be revoked.

XLIX. If any licensed Vender die, or if his license expire or be revoked, the Stamps in the possession of such Vender, of which, after deducting the percentage or discount allowed, he has paid the amount to Government, may within three months from the date of the death of such Vender, or from the date on which his license expired or was revoked, as the case may be, be brought to the Collector of Stamp Revenue of the District who shall repay such amount. Provided that such Stamps were actually in the possession of such Vender for the purpose of sale, and were procured by him from the Collector of Stamp Revenue of the District.

Renewal of damaged or spoiled Stamps.

L. *Clause* 1.—If any Stamp Paper, after having been obtained in the manner allowed by this Act, shall have become damaged, spoiled, or unfit for use either by any accident happening to the same, or because of some error in the drawing up or copying of any Deed, Instrument, or Writing thereupon, which being discovered before such Deed, Instrument, or writing shall be finally signed and executed, renders the same of no avail; or when by reason of the death or refusal of the party whose signature may be necessary to effect the transaction intended by such Deed, Instrument, or writing, it remains incomplete and of no avail; or

when by the refusal of any Office or trust that may be granted by a Deed, Instrument, or Writing, it has failed of the purpose intended; or if any Deed, Instrument, or Writing duly stamped shall not have been finally executed by reason of any accident having happened to the same, or because of some error in the drawing up or copying thereof having been discovered, the same is rendered of no avail; or if by reason of failure of consideration, the transaction intended by such Deed, Instrument, or Writing cannot be effected, or such transaction has been effected by some other Deed, Instrument, or Writing duly stamped, or in the case of a Promissory Note, Bill of Exchange, or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same is never brought to use, and in the case of a Bill of Exchange, other than a Bill drawn in sets as provided in this Act, if it shall not have been presented for acceptance; in all such cases, it shall be competent to the Collector of the Stamp Revenue of the District, upon delivery being made of such Stamped Paper, so damaged, spoiled, or rendered unfit for use, to cause a similar Stamp or Stamps of equal value to be delivered to the owner of such Stamp Paper, so damaged, spoiled, or rendered unfit for use, or to his representative, upon payment of the value of the Paper on which the new Stamp shall be impressed. The provisions of this Section shall not extend to any Bill of Exchange drawn in a set, if any one of such set shall have been delivered to the payee, or to any adhesive Stamp.

Application for renewal.

Clause 2.—The owner of any Stamp which shall be damaged, spoiled, or rendered unfit for use as aforesaid, shall prefer his application to the Collector of Stamp Revenue of the District in which he may have purchased the same, and if such Collector be of opinion that the application ought to be complied with, he shall deliver or cause to be delivered, subject to the provisions of this Act, to the party or his representative, a Stamp similar or of equal value to that which has been damaged, spoiled, or rendered unfit for use. Provided that the application be made within six months of the period when the Stamp shall have become damaged, spoiled, or rendered unfit or use.

Clause 3.—In any case in which, under this Section, a Collector may give a new Stamp in lieu of a Stamp damaged, spoiled, or rendered unfit for use, he may, if he shall see fit, repay to the party making the application the amount of such Stamp in money.

Collector may repay the amount of damaged Stamps instead of giving new Stamps.

LI. *Clause* 1.—From the time when this Act shall come into force, in case of the sale of any land, annuity, or other property, real or personal, moveable or immoveable, not being a share of any Banking Corporation or Joint Stock Company when the same is transferred by simple endorsement, or of any right, title, interest, or claim in any such property, when a Duty is imposed by this Act on the conveyance thereof, the full purchase or consideration money directly or indirectly paid, or secured, or agreed to be paid for the same, shall be truly expressed and set forth in words at length in the principal Deed, Instrument, or Writing, whereby the property sold shall be conveyed to or vested in the purchaser or in any other person. Provided that if the Deed, Instrument, or Writing be framed in accordance with a form prescribed by any Act or Regulation in force and shall not contain such purchase or consideration money, then such purchase or consideration money shall be truly expressed and set forth in words at the foot of such Deed, Instrument, or Writing. If the full purchase or consideration money shall not be fully and truly expressed and set forth in the manner above directed, the purchaser and seller shall each forfeit a sum not exceeding five hundred rupees, and be charged with the payment of five times the amount of the excess of Duty which would have been payable for such Deed, Instrument, or Writing in respect of the full purchase or consideration money, if the same had been duly expressed in such Deed, Instrument, or Writing, beyond the amount of Duty actually paid for the same.

Conveyance to state truly the amount of the purchase money.

Clause 2.—If any person shall knowingly and wilfully insert or set forth in any such Deed, Instrument, or Writing any less amount than the full and true purchase or consideration money directly or indirectly paid, or se-

Penalty if person employed to prepare a conveyance inserts a less sum than the true purchase money.

cured, or agreed to be paid for the same, he shall incur the penalties prescribed in the preceding Clause of this Section.

Prosecution only to be by Collector of Stamp Revenue, &c.

LII. No person shall be proceeded against for any offence affecting the Public Revenue under this Act, except at the suit or prosecution of the Collector of the Stamp Revenue of the District or other Officer specially authorized by the Government in that behalf.

Offences cognizable by Magistrate or Justice of the Peace.

LIII. Every offence punishable by this Act may be tried by any Officer exercising the powers of a Magistrate or of a subordinate Magistrate of the 1st Class as defined in the Code of Criminal Procedure or by a Justice of the Peace.

Imprisonment in case of non-payment of fine.

LIV. If any person sentenced to a fine under the provisions of this Act shall not pay the fine to which he shall be sentenced, it shall be lawful for the Magistrate or Justice of the Peace who passed the sentence to issue his warrant to levy the amount by distress and sale of the goods and chattles of the party fined, or to sentence the offender to imprisoment until the payment of the fine, or the expiration of a term to be assigned, not exceeding three months, whichever shall first take place.

Reward to informers.

LV. A share not exceeding one-half of every fine imposed and recovered under this Act may be awarded by the Magistrate or Justice of the Peace imposing the fine to the informer.

Interpretation. "Stamp."

LVI. Throughout this Act and the Schedules annexed to it, the word "Stamp," except when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; and by the "Value" of a Stamp is meant a sum indicated by words or figures duly impressed upon such piece of paper or other material. The term "Bill of Exchange" includes a Hoondee or any other Instrument of a like nature. The word "Deed" includes every Instrument of the nature of a Deed whe-

"Value."

"Bill of Exchange."

"Deed" "Paper."

ther under a Seal or not. The word "Paper" includes Parchment, Vellum, or other similar material. The word "Sheet" denotes a stamped paper or other material of the size prescribed by the Governor-General in Council under Section IV. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "Month" means a calendar month. The words "British Territories in India" denote the territories vested in Her Majesty by the Statute 21 and 22 Vic. C. 106, entitled "an Act for the better Government of India."

"Sheet."

Number. Gender. "Month." "British Territories in India."

Commencement of Act.

LVII. This Act shall come into force on the 1st day of June 1862.

SCHEDULE A.

Containing a specification of the Deeds, Instruments, and Writings which require to be stamped under this Act, and of the proper Stamps for such Deeds, Instruments, and Writings.

	PROPER STAMPS.
1. Agreement, or any Minute or Memorandum of an Agreement, not being of the nature of a Bond or other Obligation for the payment of money, or of a Conveyance, or of a Deed of Mortgage, gift, or Dower, and not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the parties. ...	1 Rupee.
NOTE.—If two or more letters are offered in evidence to prove an Agreement between the parties who shall have written such letters, it will be sufficient if any one of such letters be stamped as an Agreement.	

	PROPER STAMPS.	
If the Agreement, or Minute or Memorandum be of the nature of a Bond or other obligation for the payment of money, or of a Conveyance, or of a Deed of Mortgage, Gift or Dower.	The same Stamp as prescribed by this Schedule for such Instrument.	
2. Agreement for an annual or periodical payment not otherwise charged for in this Schedule. ...	The same Stamp as for a Bond for the amount of ten years, payment or of the total sum secured if less.	
3. Agreement, or Minute or Memorandum for a lease, or of the terms and conditions on which any land, house, or other real property is let, held, or occupied. ...	The same Stamp as for a Lease for the same property on the same terms and conditions.	
Provided that any lease afterwards made of the same land, house, or other real property in pursuance of such Agreement, Minute or Memorandum, shall be chargeable with a Stamp Duty of 8 Annas only, to be denoted by a Stamp, which shall be affixed to such lease by the Collector of Stamp Revenue of the District upon the production of the Agreement, Minute or Memorandum bearing the proper Stamp, and not otherwise.		
4. Agreement to cultivate, manufacture, produce, provide, or deliver any article in consideration of advance made— ...	*Rupees.*	*Annas.*
If the amount advanced do not exceed 50 Rs.	0	1
If it exceed 50 Rs. but do not exceed 100 Rs.	0	2
If it exceed 100 Rs. but do not exceed 200 Rs.	0	4
If it exceed 200 Rs. but do not exceed 500 Rs.	0	8
If it exceed 500 Rupees ...	1	0
5. Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, Share in any Joint Stock Company, or Bill of Exchange to the amount or value of 100 Rupees or upwards. ...	1 Anna.	

	PROPER STAMPS.
EXEMPTIONS.	
Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale or purchase of any Security of the Government of India, Railway Scrip, share in any Joint Stock Company, or Bill of Exchange, if not of the amount or value of 100 Rupees.	
Agreement or Contract, or any Minute or Memorandum of an Agreement, made for or relating to the sale of any goods or merchandize.	
6. Agreement for the hire of a Steamer for tugging a vessel, if for a single trip within the limits of the Port. ...	8 Annas
Beyond the limits of the Port. ...	1 Rupee.
7. Agreement for service or personal employment by the month or for any longer period.—	
If the amount of monthly salary or wages secured by such Agreement do not exceed in value 5 Rupees. ...	1 Anna.
If the amount so secured exceed 5 Rs. but do not exceed 20 Rs. ...	4 Annas.
If the amount so secured exceed 20 Rs. but do not exceed 50 Rs. ...	8 Annas.
In any other case. ...	1 Rupee.
EXEMPTION.	
Agreement for service or personal employment for any period less than a month.	
8. Affidavit dor solemn declaration not made for the immediate purpose of being filed, read, or used in any Court of Justice, per sheet ...	1 Rupee.
9. Assignment, if not of the nature specified under the head of Conveyance or Settlement, nor especially exempted—	

	PROPER STAMPS.
In any case where the Assignment is of any interest secured by an original Deed, Instrument, or Writing on a Stamp of a value less than eight Rupees ...	The same Stamp as the original Deed.
In any other case ...	3 Rupees.

EXEMPTION.

Transfer by mere endorsement of a Bill of Exchange, Promissory Note, or other negotiable Instrument; or of a Bill of Lading and transfer by Assignment of a Policy of Insurance.

10. Bill of Exchange, Letter of Credit, Draft, Cheque, Promissory Note, Hoondee, or other Order or Obligation for the payment of money not being a Bond, Instrument, or Writing, bearing the attestation of one or more witnesses—

If payable on demand and bearing the date on which it is made, and if the sum payable exceed twenty Rupees ...	1 Anna.

			If drawn singly.		If drawn in a set of two, each to be stamped.		If drawn in a set of three, each to be stamped.	
			RS.	AS.	RS.	AS.	RS.	AS.
If payable at sight or at any period not exceeding one year after date or sight—								
When not exceeding		100 Rupees	0	1	0	1	0	1
When exceeding 100 and not exceeding ...	250	„	0	3	0	2	0	1
„ 250 „ ...	500	„	0	6	0	3	0	2
„ 500 „ ...	1,000	„	0	12	0	6	0	4
„ 1,000 „ ...	2,500	„	1	8	0	12	0	8
„ 2,500 „ ...	5,000	„	3	0	1	8	1	0
„ 5,000 „ ...	10,000	„	6	0	3	0	2	0
„ 10,000 „ ...	20,000	„	12	0	6	0	4	0
„ 20,000 „ ...	30,000	„	18	0	9	0	6	0

PROPER STAMPS.

And for every further 10,000 Rs. or for any part of every further 10,000 Rupees, if drawn singly, 6 Rupees in addition; if drawn in a set of two, each to be stamped, 3 rupees in addition, if drawn in a set of three, each to be stamped, 2 rupees in addition.

If bearing no date, the same Stamp as if payable at sight, unless any date or period of payment be specified, in which case the same Stamp as prescribed by Article 12 for a Bond of the same amount. If drawn in a set of more than three, each of the set in excess of three to be stamped as required for each one of a set drawn in a set of three.

If not drawn singly, each of the set shall state that it is drawn in a set of two or three and shall denote on the face thereof that it is the first, second, or third of the set as the case may be.

If payable at a period exceeding one year after date or sight ... } The same stamp as prescribed by Article 12 for a Bond for the payment of the same amount

11. Bill of Lading of or for any goods to be exported. ... } 4 Annas for a single Bill, Acknowledgment, or instrument or each part of every set of the same

Bill of Sale.—See Conveyance and Mortgage.

12. Bond or other Obligation for the payment either absolutely or conditionally of any definite or certain sum of money, not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule—

		Rupees.	Annas.
If for any sum not exceeding	25 Rs.	0	2
Above 25 Rs. and not exceeding	50 „	0	4
„ 50 „ ditto	100 „	0	8
„ 100 „ ditto	200 „	1	0
„ 200 „ ditto	300 „	2	0

		PROPER STAMPS.	
		Rupees.	*Annas.*
Above 300 Rs. and not exceeding	500 Rs.	4	0
„ 500 „ ditto	700 „	5	0
„ 700 „ ditto	1,000 „	6	0
„ 1,000 „ ditto	2,000 „	10	0
„ 2,000 „ ditto	3,000 „	15	0
„ 3,000 „ ditto	5,000 „	25	0
„ 5,000 „ ditto	10,000 „	35	0
„ 10,000 „ ditto	20,000 „	60	0
„ 20,000 „ ditto	40,000 „	100	0
„ 40,000 „ ditto	60,000 „	125	0
„ 60,000 „ ditto	80,000 „	150	0
„ 80,000 „ ditto	1,00,000 „	200	0
And for every further part of	1,00,000 „	100	0
And for every further	1,00,000 „	200	0
13. Bond or Agreement for a loan made upon the deposit of Title-Deeds or a Note or other Security of the Government of India, Share, or Debenture of any Railway or Joint Stock Company, Bill of Lading, Warrant for goods deposited in a bonded or other ware-house or assignment of any goods with or without a deposit of the acceptance or Promissory Note of the borrower. Provided that no such Agreement is drawn in the form of a Bond or of a Bill of Exchange or Promissory Note, or any such way as would render it a negotiable Instrument passing by endorsement, for whatever amount, in case the period of such loan shall not exceed one month.		1	0
If such loan is for a period exceeding one month and not exceeding two months.		2	0
If such a loan is for a period exceeding two months and not exceeding three months.		4	0
If such loan is for a period exceeding three months ...		The same Stamp as prescribed by Article 12 for a Bond of the same amount.	

	PROPER STAMPS.
14. Bond or other Obligation concerning respondentia and bottomry ...	The same Stamp as prescribed by Article 12 for a Bond for the like amount.
15. Bond or other Obligation given as security for the transfer of any Government Security or Stock of any public Company, or for the delivery or accounting for any matter or thing capable of being valued. ...	The same Stamp as prescribed by Article 12 for a Bond for the payment of the amount engaged to be paid or accounted for, or of the value of the thing to be delivered or transferred.
16. Bond or other Obligation for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond or other Obligation, whether for a fixed or for an indefinite period ...	The same Stamp as prescribed by Article 12 for a Bond for the payment of a sum equal to ten times the yearly payment, or of the total sum secured, if less.
17. Bond or other Obligation when the amount of the money to be secured is not specified. ...	An optional Stamp—See Section XXVII of the Act.
When the amount is limited to a certain sum.	The same Stamp as prescribed by Article 12 for a Bond for the payment of such limited sum.
18. Bond or other Obligation for the due execution of an office or work, and any other Bond not otherwise specially provided for or expressly exempted from the payment of Stamp Duty by this Schedule. ...	An optional Stamp—see Section XXVII
19. Bond or other Obligation taken as collateral security with some Deed or Instrument executed on the Stamp prescribed for a Conveyance or Money Bond, or as security for the performance of any other Contract, Covenant or Agreement, not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand. ...	The same Stamp as the Deed, Instrument, Contract, Covenant, or Agreement, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
20. Certificate, that is to say, a document denoting or intended to denote the right or title of the holder thereof, or any person, to any	

	PROPER STAMPS.
Share or Shares or Scrip in any Joint Stock or other Company, or proposed or intended Company; or any Certificate declaring or entitling the holder thereof, or any person, to be or become the proprietor of a Share or Shares or Scrip of or in any such Company ...	1 Anna
21. Charter-party, or any Agreement or Contract for the Charter or hiring of any sea-going Ship or Vessel ...	2 Rupees.
22. Composition Deed, or other Instrument of Composition between a debtor and his creditor ...	5 Rupees
23. Conveyance or Deed or Instrument of any kind or description whatsoever, executed for the sale or transfer, for a consideration, of any land, tenement, rent, annuity, or other property, real or personal, moveable or immoveable, or of any right, title, or claim to or upon, or interest in, any land, house, rent, annuity, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the property sold shall be conveyed to, or otherwise vested in, the purchaser, or to some other person by his direction—	
When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees ...	1 Rupee

					Rupees.	*Annas*
Above	100 Rs	and not exceeding	200	Rs.	2	0
„	200 „	ditto	400	„	4	0
„	400 „	ditto	800	„	8	0
„	800 „	ditto	1,200	„	12	0
„	1,200 „	ditto	2,000	„	20	0
„	2,000 „	ditto	3,000	„	30	0
„	3,000 „	ditto	4,000	„	40	0

	PROPER STAMPS.	
	Rupees.	*Annas.*
Above 4,000 Rs. and not exceeding 5,000 Rs.	50	0
„ 5,000 „ ditto 7,500 „	75	0
„ 7,500 „ ditto 10,000 „	100	0
„ 10,000 „ ditto 20,000 „	150	0
„ 20,000 „ ditto 40,000 „	200	0
„ 40,000 „ ditto 60,000 „	300	0
„ 60,000 „ ditto 80,000 „	400	0
„ 80,000 „ ditto 1,00,000 „	500	0
And for every further 50,000 „	200	0
Or part thereof „	100	0
24. Conveyance when the consideration is an annuity. ...	The same Stamp as for a Conveyance when the purchase money is equal to ten times the annuity.	
25. Conveyance of any kind whatever not otherwise charged, if the value of the property conveyed or of the consideration for the Conveyance be stated or appear on the face of the Conveyance ...	The same Duty as would be charged if a consideration in money equal to such value were expressed in the Conveyance as the consideration thereof.	
If no value appear on the face of the Conveyance ...	50 Rupees.	
26. Conveyance or Transfer of a Share of a Banking Corporation or Joint Stock Company, whether by Deed or Endorsement, when the market value of the Share transferred does not exceed 100 Rupees per Share. ...	4 Annas.	
When it exceeds 100 Rupees and does not exceed 200 Rupees. ...	8 Annas.	
When it exceeds 200 Rupess and does not exceed 300 Rupees. ...	12 Annas.	
When it exceeds 300 Rupees and does not exceed 400 Rupees. ...	1 Rupee.	
and for every 100 Rupees a further Duty of 4 Annas, and for the conveyance or transfer of every quarter orhalf of any such Share, a corresponding rate of Duty.		

	PROPER STAMPS.
EXEMPTION.	
All transfers of subscription to any of the Government Loans, or other Government Securities.	
27. CO-PARTNERSHIP.—Deed or other Instrument of— ...	8 Rupees.
28. COPY—COPY or Extract of any Deed, Instrument, or Writing attested or certified to be a true copy or extract and furnished for the purpose of being given in evidence in any Civil or Revenue Proceeding or made for the security or use of any person being a party to, or taking any benefit or interest immediately under such Deed, Instrument, or Writing ...	The same Duty as the original when such Duty does not exceed 8 Ans.
If the Duty chargeable on the original exceed 8 Annas, but do not exceed 10 Rupees ...	1 Rupee.
If the Duty chargeable on the original exceed 10 Rupees, but do not exceed 50 Rupees ...	2 Rupees.
If the Duty chargeable on the original exceed 50 Rupees ...	5 Rupees.
NOTE—Every copy bearing the proper Stamp which shall at any time be offered in evidence shall be deemed to have been made for that purpose.	
29. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the Deed, Instrument, or Writing, per sheet.	8 Annas.
30. Copy, attested or certified to be a true copy or made for the purpose of being given in evidence in any Civil or Revenue Proceeding, of any Will, Testament, or Codicil, or of any Probate, or Probate Copy of any Will or Codicil, or of any Letter of Administration, or of any confirmation of any Testament, Testamentary or Dative, or of any part thereof respectively	1 Rupee.

	PROPER STAMPS.
31. Copy or Extract of any Deed, Instrument, or Writing annexed to any Deed, Instrument, or Writing	The same Stamp as the Deed, Instrument, or Writing from which the copy or extract is made, if of value not exceeding 8 Annas; otherwise 8 Annas per sheet.
32. Copy authenticated or certified, of any record, letter, account, statement, report, or other writing, furnished to any individual from any Government Office, per sheet ...	8 Annas.
For copies of Judicial or Revenue Papers given from Courts of Justice, Revenue Offices, &c. ...	See Schedule B.
EXEMPTION.	
Copy of any paper which any Public Officer is required to make or furnish, for which a Stamp is not specially required by this Schedule. ...	
33. Counterpart of a lease ...	The Same Stamp as for such lease.
EXEMPTION.	
Counterpart of a lease executed by a ryot or other actual cultivator of the soil, provided that no fine or premium be paid as part of the same transaction.	
(For Madras.)	
Counterpart of a lease executed between landlord and tenant relative to lands in the Presidency of Madras, subject to the payment of Revenue to Government.	
A counterpart of a lease includes a Kubbuleut and the like.	
34. COVENANT.—Any separate Deed of Covenant made on the sale or mortgage of any immoveable property or of any right or interest therein (the same not being a Deed chargeable with *ad valorem* Duty under the head of Conveyance in this Schedule) for the conveyance, assign-	

	PROPER STAMPS.
ment, surrender, or release of such property, right, or interest, or for the title to or quiet enjoyment, freedom from incumbrance, or further assurance of such property, right, or interest or otherwise by way of indemnity in respect of the same, or for the production of the Title-Deeds, or Muniment of Title relating thereto, or for all or any of those purposes ...	10 Rupees.
35. Deed of Gift or Dower whether to take effect on the instant or at a future period, determinate or indeterminate ...	The same Stamp as for a Conveyance.
36. Deed of any kind not otherwise charged or expressly exempted from Stamp Duty by this Schedule ...	1 Rupee.
37. Duplicate, or counterpart of any Deed, Instrument, or Writing of any description whatever chargeable with Duty under this Act not otherwise charged for or expressly exempted from Stamp Duty under this Schedule ...	The same Duty as the original when such Duty does not exceed 8 ans.
If the Duty chargeable on the original exceed 8 Annas, but do not exceed 10 Rupees ...	1 Rupee.
If the Duty chargeable on the original exceed 10 Rupees, but do not exceed 50 Rupees ...	2 Rupees.
If the Duty chargeable on the original exceed 50 Rupees ...	5 Rupees.
Provided that such duplicate or counterpart Stamp shall be affixed by the Collector of Stamp Revenue of the District upon the production of the original Deed bearing its proper Stamp and not otherwise.	
38. EXCHANGE.—Any Deed, Instrument, or Writing whereby any real property shall be conveyed or surrendered in exchange for other property ...	The same Stamp as for a Conveyance.

PROPER STAMPS.

39. LEASE—Any lease made in perpetuity or for a term of years, or period determinable with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent. ... — The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration

40. Any lease of any land, house, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

	When the lease is for a period not exceeding one year.		When the lease is for a period exceeding one year.	
	Rs.	As.	Rs	As
Where the rent calculated for a whole year shall not exceed in value 24 Rupees ...	0	4	0	8
Exceeding 24 Rupees, but not exceeding 50 Rs.	0	8	0	12
„ 50 „ „ 100 „	0	12	1	0
„ 100 „ „ 250 „	1	0	2	0
„ 250 „ „ 500 „	2	0	4	0
„ 500 „ „ 1,000 „	4	0	8	0
„ 1,000 „ „ 2,000 „	8	0	16	0
„ 2,000 „ „ 4,000 „	16	0	32	0
„ 4,000 „ „ 6,000 „	24	0	48	0
„ 6,000 „ „ 10,000 „	40	0	80	0
„ 10,000 „ „ 25,000 „	100	0	200	0
„ 25,000 „ „ 50,000 „	200	0	400	0
and for every additional 25,000 or for any part of every additional 25,000 Rupees ...	100	0	200	0

41. Any lease of any land, house, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium. ... — The same Stamp as for a lease for a period exceeding one year.

42. Any lease of any land, house, or other real property stipulating for a rent, granted in consideration of a fine or premium. — A Stamp of value equal to the joint value of the Stamps for a Conveyance in consideration of the fine and a lease for the rent.

	PROPER STAMPS.
EXEMPTIONS.	
Any lease executed to a ryot or other actual cultivator; provided that no fine or premium be paid as part of the same transaction.	
(*For Madras.*)	
Every lease or other engagement executed between landlord and tenant relative to land in the Presidency of Madras, subject to the payment of Revenue to Government.	
43. Letter, or Power of Attorney, not being of the kinds provided for in Schedule B ...	4 Rupees.
If the Letter or Power of Attorney be for the performance of one act only, and the value of the property to be dealt with be expressed in the Letter or Power and do not exceed 500 Rupees.	1 Rupee.
44. Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an *ad valorem* Stamp under this Act. ...	The same Stamp as for a Bond.
If given for securing any sum of money exceeding 500 Rupees, for which the person giving the same shall then be in actual custody under an arrest on mesne process or in execution. ...	*Rupees.* 4 *Annas.* 0
If given as such collateral security as above-mentioned. ...	5 0
NOTE.—For Wakalutnamahs, Mooktarnamahs and other powers required to be filed for the conduct of suits or proceedings of any kind pending before the Courts of Justice or before the Revenue Authorities ...	See Schedule B.
45. Letter of license from a creditor to his debtor ...	*Rupees.* 8 *Annas.* 0
46. MORTGAGE.—Any Deed of Mortgage or Conditional Sale, Assignment, Pledge, or	

	PROPER STAMPS.
Hypothecation, or of any acknowledgment in the nature of a Mortgage, Conditional Sale, Pledge, or Hypothecation of or in respect of any immoveable property with or without possession given or of any personal property without possession given, intended as a security for money due or to be lent thereupon; also any Deed or Contract accompanied with a deposit of title deeds to any property, where the same may be made as security for payment of money due or lent at the time ...	The same Stamp as for a Bond for the payment of the amount due or lent.
47. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation, or of any Acknowledgment in the nature of a Mortgage, Conditional Sale, Assignment, Pledge, or Hypothecation given for a loan or advance made on the deposit of any personal property ...	The same Stamp as for a Promissory Note.
48. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation with or without possession given of any immoveable property or of any right, title, or interest therein, intended as security for the transfer of a Government Security, or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued ...	The same Stamp as for a Bond for the payment of the total amount assured, or for the *bonâ fide* value.
49. Deed of Mortgage or Conditional Sale, Assignment, Pledge, or Hypothecation with or without possession given of any immoveable property, or of any right, title, or interest therein, given for the security of an annuity for an indefinite period, such as a Life Annuity ...	The same Stamp as for ten times the annual payment.
Where it may be stipulated that the amount secured by such Mortgage shall not exceed a certain sum ...	The same Stamp as for a Deed of Mortgage of such limited sum.

	PROPER STAMPS.
Where the total amount secured by the Mortgage is unlimited ...	An optional Stamp—See, Section XXVII of the Act.
50. Deed of Mortgage where a Bond shall have been already taken for the amount secured, or where, from any other cause, the Mortgage shall act merely as a collateral security to some other transaction in which an Instrument requiring a Stamp has been executed ...	The same Stamp as for the Bond or other Instrument if of value not exceeding eight Rupees; otherwise a Stamp of eight Rs.
NOTE—Where there are more Deeds than one required to execute the Mortgage in the manner desired by the parties, then for every other Deed than the principal Deed; provided the original Deed has been duly stamped ...	The same Stamp as for the principal Deed if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
EXEMPTION.	
Letter of Hypothecation accompanying a Bill of Exchange.	
51. MORTGAGED PROPERTY.—Re-conveyance of— ...	The same Stamp as for an Assignment.
52. MORTGAGED PROPERTY.—Release of an equity of redemption of— ...	The same Stamp as for a Conveyance.
53. NOTARIAL ACT.—Any Notarial Act whatsoever not otherwise charged in this Schedule ...	*Rupees.* 2 *Annas.* 0
54. Partition by private Agreement or made by a Public Officer, of an estate or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, for each sharer's copy of the Deed of partition—	
When the sharer's portion does not exceed one hundred Rupees in value	*Rupees.* 0 *Annas.* 8
Exceeding 100 Rs. and not exceeding 200 Rs.	1 0
„ 200 „ ditto 400 „	2 0
„ 400 „ ditto 600 „	4 0
„ 600 „ ditto 800 „	6 0
„ 800 „ ditto 1,000 „	8 0

	PROPER STAMPS.
And for every additional four hundred Rupees, or part thereof ...	*Rupees.* 2 *Annas.* 0
When the subject of the partition, consisting either wholly or in part of other property than money, and money not being part of such subject is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject. ...	A Stamp of value equal to the joint value of the Stamp which would have been required had the subject of partition been actually divided with the just proportion and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid, for the purpose of compensating the difference therefrom.
55. Policy of insurance, or other Instrument by whatever name the same shall be called, whereby an Insurance shall be made upon any life or upon any event depending upon any life or against loss or damage by fire upon any building or property, not of the description mentioned in Article 56—	
For every sum of one thousand Rupees and also for each and every fractional part of one thousand Rupees ...	*Rupees.* 0 *Annas.* 8
56. Policy of Insurance of any ship, vessel, sloop, lighter boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured.	
	If executed singly. / If executed in sets of two, each to be Stamped.
If the whole sum insured shall not exceed one thousand Rupees	*Rupees.* 8 *Annas.* 4

	PROPER STAMPS.	
If the sum insured exceed one thousand Rupees, for every one thousand Rupees, eight annas if executed singly; and if executed in a set of two, four annas for each number.	If executed singly.	If executed in sets of two, each to be stamped.
	Rupees.	*Annas.*
Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand Rs. ...	1	8
If the sum insured exceed one thousand Rupees, for every one thousand Rupees and also for any fractional part of one thousand Rupees whereof the same shall consist, one Rupee if executed singly: and if executed in a set of two eight annas for each number.		
If drawn in a set of more than two, each of the set in excess of two to be stamped as required for each one of a set drawn in a set of two.		
NOTE.—A Letter of cover or engagement to issue a Policy of insurance does not require a Stamp. Provided that, unless such letter or engagement bear the full Stamp prescribed for a Policy of Insurance, no money shall be paid or payable upon it, nor shall it be filed, exhibited, or recorded in any Court in India otherwise than to compel the delivery of a Policy on the prescribed Stamp.		
Promissory Note.—See Bill of Exchange.		
57. Promissory Note for the payment of any sum by instalments, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain	The same Stamp as for a Bond for the payment of the whole amount.	
	Rupees.	*Annas.*
58. Protest of any Bill of Exchange or Promissory Note for any sum of money ...	2	0

	PROPER STAMPS.	
	Rupees.	*Annas.*
59. Protest of any Commander or Master of a vessel	2	0
60. Protest, Notice of intention of—of any Commander or Master of a vessel	0	8
61. Receipt or discharge given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, or acquitted, exceeds twenty Rupees	0	1

GENERAL EXEMPTIONS.

Letter sent by post acknowledging the arrival of a Currency or Promissory Note, Bill of Exchange, or any Security for money.

Receipt or discharge for the rent of land paying Revenue to Government, granted to any ryot or other actual cultivator for the rent of land cultivated by him.

Receipt or discharge written upon any Promissory Note, Bill of Exchange, Draft, or Order for the payment of money, duly stamped.

Receipt or discharge written upon or contained in a Mortgage Deed, or other Security, or a Deed of Conveyance, Settlement, Personal Bond, or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed or the receipt of any principal money, interest, or annuity thereby charged.

Receipt given for money deposited in any Bank, or in the hands of any Banker, to be accounted for whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided always that this exemption shall not extend to a receipt or acknowledgment for any sum

	PROPER STAMPS.	
paid or deposited for or upon a letter of any allotment of a share, in respect of a call upon any scrip or share of or in any Joint Stock or other Company or proposed or intended Company, which last mentioned receipt or acknowledgment, by whomsoever given, shall be liable to the Duty charged upon a receipt.		
62. Release to an Executor or Trustee from his trust ...	*Rupees.* 10	*Annas.* 0
63. Schedule annexed or referred to in any Agreement, Lease, Bond, Deed, or other Instrument, per sheet ...	0	8
64. Settlement, Marriage Settlemen&c., namely, any Deed or Instrument, whereby any sum of money, or any Government Security or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person, in any manner whatsoever ...	The same Stamp as prescribed by Article 12 for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate, an optional Stamp—See Section XXVII of the Act.	
65. Shipping order for or relating to the conveyance of any goods on board of any ship or vessel ...	1 Anna.	
66. WARRANT. Bonded Warehouse— ...	8 Annas.	

GENERAL EXEMPTIONS.

Any Deed, Instrument, or Writing of any kind made or executed by or on behalf of the Government by any Government Board, Commission, Court, Officer, or Agent.

NOTE.—The foregoing exemption does not extend to any Deed, Instrument, or Writing executed by a Court of Wards, Local Agent, or Officer acting under the authority of any such Court or Agent, or by a Municipal Commissioner or by any Administrator General or a Receiver appointed by any Court; neither

PROPER STAMPS.

does it extend to a sale made for the recovery of an arrear of revenue or rent, or in satisfaction of a decree or order of Court, in any of which cases the purchaser shall be required to pay, along with the purchase money, the price of the requisite Stamp, or else provide such Stamp and shall receive from the Officer conducting the sale a Deed of Sale executed on the proper Stamp.

Renunciation of land executed by a Ryot or other actual cultivator of the land to his landlord.

Will, Testament, and the like, together with a Deed merely declaratory of trust or appointment or otherwise, in execution of powers, or pursuant to any previous Settlement, Deed, or Will.

NOTE.—(*a.*) Any Deed, Instrument, or Writing required by the foregoing Schedule to be stamped, may be written on one or more Stamps, if the value of the Stamps used amount to the value required by the Schedule.

(*b.*) When of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed. In any case, however, where there are more Deeds than one, every other Deed than the principal requires the same Stamp as the principal Deed, if of value not exceeding eight Rupees (which shall be the maximum Stamp for collateral Deeds), and every such collateral Deed shall specify by its contents which other is the principal Deed by which the Conveyance has been effected, certifying that it is executed on the proper Stamp.

SCHEDULE B.

Referred to in Section XXX of the Act, containing the Specification of Duties chargeable on Law Papers.

	PROPER STAMPS.
Application.—See Razeenamah.	
1. Application presented to the Collector of Customs at any Presidency Town, and application presented to the Municipal Commissioners, or to any Magistrate, or Justice of the Peace, under Act XIV of 1856 (*for the Conservancy and Improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*).	1 anna.
2. Bail or Security Bond, or other Obligation, whether of specified amount, or with a penalty of a specific sum of money, or of indefinite amount, when taken by or by order of any Court of Justice, or by any Revenue Authority ...	*Rupees.* 0 *Annas.* 8
EXEMPTION.	
Bail Bonds in Criminal cases, Recognizances to prosecute or give evidence, and personal recognizances for appearance or otherwise.	
3. Certificate granted under Act XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*) if the debt or other property in respect to which the Certificate is granted is sworn not to exceed 500 Rupees ...	4 Rupees.
If exceeding 500 Rupees, but not exceeding 1,000 Rupees ...	8 Rupees.
And for every additional 1,000 Rupees or any part of every additional 1,000 Rupees. ...	4 Rupees.
The party to whom such Certificate is granted, or his heir or representative shall, after the expiration of twelve months from the date of such Certificate, and thereafter whenever	

	PROPER STAMPS.	
the Court which granted such Certificate shall require him so to do, file a statement of all moneys recovered or realized by him under such Certificate, and if the moneys so recovered or realized shall exceed the amount of the debts or other property as sworn to by the person to whom such Certificate is granted, the Court may cancel the Certificate and order such person to take out a fresh Certificate on the Stamp prescribed by this Article for such enhanced amount. In default of furnishing such statement within the time allowed, the Court may cancel the Certificate.		
4. Copy of Decree if passed in any Court below the Sudder Court or in any Revenue Court in any suit in which the value of the claim amounts to fifty rupees, or in any regular appeal ...	1 *Rupee.*	
If passed in the Sudder Court in any suit or appeal ...	*Rupees* 4	*Annas.* 0
5. Copy of a Judgment or Order not being a Decree if passed by a Court below the Sudder Court or in any Revenue Court ...	0	8
If passed by the Sudder Court ...	1	0
If the Judgment be translated into any other language, application for a copy of the translation may be made on unstamped paper, and a copy of the translation may be given in addition to or in place of the copy of the Judgment, and shall bear the same Stamp.		
EXEMPTION.		
Copy of any Judgment, Decree, or Order, if passed otherwise than on appeal in any Court below the Sudder Court in any suit, or in relation to any suit, or in any Revenue Court, in		

	PROPER STAMPS.
which the value of the claim does not amount to fifty rupees when such copy is taken out of the Court making the same.	
6. Copy of any Revenue or Judicial proceeding or Order not provided for in Article 5 or falling under the exemption to that Article, or Copy of any Account, Statement, Report, or the like, taken out of any Civil or Criminal Court or any Revenue Court or Office for use or reference, or when left on Proceedings in place of the original withdrawn—per sheet ...	*Rupees.* 0 *Annas.* 8
7. Copy of any Deed, Instrument, or Writing, stamped in accordance with Schedule A. annexed to this Act when left on Proceedings in place of the original withdrawn.	The same Stamp as the original when such Stamp does not exceed 8 annas, otherwise a Stamp of 8 annas per sheet.
EXEMPTION.	
Copy of any such Deed, Instrument, or Writing when the original does not require a Stamp under the said Schedule A.	
Letters of Administration.—See Probate.	
8. Mooktarnamah, Wakalutnamah, and other power, filed or pesented for the conduct of any case in any Court of Justice, or before any Revenue Authority—	
When presented to the Sudder Court ...	*Rupees.* 2 *Annas.* 0
When presented to the Board of Revenue or other Chief Controlling Revenue Authority ...	2 0
When presented to a Commissioner of Revenue, or to a Commissioner of Customs, not being the Chief Controlling Revenue Authority...	1 0
When presented to any Court, Civil or Criminal, other than the Sudder Court, or to any Collector or other Revenue Officer ...	0 8
EXEMPTIONS.	
Mooktarnamahs executed by an Officer or Soldier of the Army.	

	PROPER STAMPS.	
	Rupees	Annas.
No Stamp is required where Counsel is admitted in any case by any Criminal Court to appear on behalf of a prisoner without a written Mooktàrnamah.		
9. Petition of appeal not being from an Order rejecting a plaint, or from a Decree or Order having, by any law, the force of a Decree; and petition or application presented to any Civil Court, shall be written upon Stamp Paper, of the following value, namely—		
When presented to the Sudder Court ...	2	0
When presented to any Court below the Sudder Court ...	0	8
SPECIAL RULE FOR BENGAL.		
10. Petition of Appeal to the Board of Revenue or other Chief Controlling Revenue Authority ...	2	0
Any other petition or application to the Board of Revenue or other Chief Controlling Revenue Authority ...	1	0
Petition or application not falling within any of the other provisions, or of the exemptions of this Schedule, presented to any other Criminal Court, or to any other Revenue Office ...	0	8
GENERAL EXEMPTIONS.		
Petition or application presented to any Moonsiff's Court, or to any Cantonment Joint Magistrate sitting as a Court of Civil Judicature, under Act III of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds*), or to any Court of Small Causes constituted under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the Local limits of the*		

	PROPER STAMPS.
jurisdiction of the Supreme Courts of Judicature established by Royal Charter) in relation to any suit or case of an amount or value less than fifty rupees, or to a Collector or Deputy Collector in relation to any suit or case of the same amount or value tried under Act X of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*).	
Application for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of any exhibit.	
Petition of appeal presented to a Magistrate against the Chowkeedary assessment.	
Communication made to a Magistrate in regard to Police matters not intended for record.	
Petition to a Collector or Officer making a settlement, relating to matters connected with the assessment of lands, the ascertainment of rights, or to any other matter affecting the settlement of the Government Revenue on land, if presented pending the formation of such settlement.	
Petition to a Board or Commissioner of Revenue relating to the same.	
Petition, application, charge, or information respecting any crime or offence. Petition from any prisoner, convict, or other person in duress, or under restraint of the Court or its Officers.	
EXEMPTION FOR THE PRESIDENCIES OF MADRAS AND BOMBAY.	
No petition or application to the Revenue Authorities need be presented on Stamp Paper, except as prescribed in the Special Rule given at the close of this Schedule with respect to suits	

	PROPER STAMPS.	
cognizable by Collectors in the Presidency of Bombay.		
11. PLAINT OR APPEAL.—Petition of, in suits and appeals not otherwise provided for, instituted in any Civil Court not within the local limits of the jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money, or to obtain possession of any interest, matter or thing—		
If the amount or value of the property claimed does not exceed 16 Rs.	*Rupees.* 1	*Annas.* 0
Above 16 Rs. and not exceeding 32 „	2	0
Do. 32 „ „ 64 „	4	0
Do. 64 „ „ 150 „	8	0
Do. 150 „ „ 300 „	16	0
Do. 300 „ „ 800 „	32	0
Do. 800 „ „ 1,600 „	50	0
Do. 1,600 „ „ 3,000 „	100	0
Do. 3,000 „ „ 5,000 „	150	0
Do. 5,000 „ „ 10,000 „	250	0
Do. 10,000 „ „ 15,000 „	350	0
Do. 15,000 „ „ 25,000 „	500	0
Do. 25,000 „ „ 50,000 „	700	0
Do. 50,000 „ „ 1,00,000 „	1,000	0
Do. 1,00,000 „	2,000	0
If the suit be instituted in a Military Court of Requests, or in the Court of a Cantonment Joint Magistrate under Act III of 1859, and the amount or value claimed do not exceed 8 Rupees ...	0	4
If it exceed 8 Rupees, but do not exceed 16 Rupees ...	0	8
If it exceed 16 Rupees, but do not exceed 32 Rupees ...	1	0
If it exceed 32 Rupees ...	The same Stamp as for a suit in any other Court.	

	PROPER STAMPS.
In suits for possession instituted under Section XV Act XIV of 1869 ...	A Stamp of one-fourth the value prescribed in the foregoing scale.

NOTE.—*(a.)* In suits for lands paying Revenue to Government not situate within the Presidencies of Madras and Bombay, if forming one entire Mehal, or a specific portion thereof with a defined jumma subject to revision, the value shall be assumed at the amount of the annual jumma payable to Government on account of the Mehal or portion thereof as aforesaid; and where the land has been assessed in perpetuity, at three times the amount of the annual jumma.

(b.) Within the Presidency of Madras, in suits for land paying Revenue to Government, the value of the property shall be assumed at the amount of the annual aggregate produce of the land computed as payable by the dependent Talookdars, Under-Farmers, and Ryots on account of the year in which the suit may be preferred.

(c.) Within the Presidency of Bombay, in suits for land paying Revenue to Government, the value of the property sued for shall be calculated at the amount of the annual assessment.

(d.) In suits for lands exempt from the payment of Revenue the value shall be calculated at eighteen times the aggregate annual rent payable by the Royts or other Under-tenants of the land.

(e.) In suits instituted for houses, gardens, and other things of value, real or personal, not of the descriptions above specified; as well as for any interest in land paying Revenue to Go-

PROPER STAMPS.

vernment or for any other right or thing not capable of valuation under the above rules, the amount shall be computed according to the estimated selling price, or when no such estimate can be made, at the sum at which the plaintiff shall estimate the value of his suit; and suits for damages or compensation for injury sustained, and the like, shall be valued at the amount claimed by plaintiff.

(*f.*) If an appeal or plaint, which shall have been rejected by the Lower Court on any of the grounds mentioned in the Code of Civil Procedure, shall be ordered to be received, or if a suit shall be remanded in appeal for a second decision by the Lower Court, the Appellate Court shall grant to the Appellant a certificate, authorizing him to receive back from the Collector the full amount of Stamp Duty paid on the petition of appeal.

SPECIAL RULE FOR THE PRESIDENCY OF BENGAL.

(*g.*) In suits instituted in the Courts of Collectors and Deputy Collectors under Act X of 1859, for the recovery of arrears of Government Revenue or rent of land paying Revenue to Government, or of money in the hands of an Agent of such land, the statement of claim shall be written on paper bearing a Stamp of one-fourth the value prescribed for suits instituted in the Civil Courts, and in all other suits instituted in the Courts of Collectors and Deputy Collectors under the said Act relating to lands paying Revenue to Government the statement of claim shall be written on paper bearing a Stamp of the value of 8 annas.

	PROPER STAMPS.
12. Probate or Letters of Administration granted by any Court, or Certificate granted under Regulation VIII, 1827, of the Bombay Code (*to provide for the formal recognition of Heirs, Executors, and Administrators, and for the appointment of Administrators and Managers of property by the Courts,*) or under Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.*)	*Rupees.* 4 *Annas.* 0
13. Razeenamah, Rufanamah, Soolunamah, or the like, that is to say :—	
Any written application whereby, or according whereunto, a suit pending in a Court of Civil Judicature shall be adjusted, or be capable of adjustment, without an award of the presiding Judge or other Officer.	To be charged as in Petitions where Petitions are required to bear a Stamp.
SPECIAL RULE FOR THE PRESIDENCY OF BOMBAY.	
Suits cognizable before Collectors under the operation of Chapter VIII Regulation XVII. 1827 of the Bombay Code (*for the territories subordinate to Bombay, prescribing Rules for the assessment and realization of the Land Revenue, defining the relative rights in the Land and its produce of the Government and the subject, of the superior holder and the tenant ; vesting the Collector with judicial powers in cases regarding land, and its rent and produce, and declaring the circumstances under which exemption from the payment of Land Revenue is to be enjoyed*), as modified by Act XVI of 1838 shall be subject to the same rules in regard to Stamps, as are in force for the Courts of Civil Judicature.	

	PROPER STAMPS.
GENERAL RULE.—If the subject matter of any plaint, written statement, petition, or copy of a decree or order cannot be conveniently comprised within one Stamp Paper of the value prescribed by this Schedule, one or more additional pieces of paper may be used bearing a Stamp of the value required for Petitions. This Rule does not apply to copies of Judgments; any additional piece of paper required for such copies do not require to be stamped.	

CUSTOMS DUTIES.

ACT No. XI. OF 1862.

[*Received the assent of the G. G. on the 23rd April,* 1862.

Recites expediency of amending the Customs Duties—

1. Duties on exports and imports by sea to be as per schedules annexed in lieu of duties under Act VII, 1859; Act XXIII, 1859; and Act X, 1860: but no alteration to be made in duties on salt and opium.

Schedule A—Duties on Imports into any Indian port not being a free port.

Schedule B—Duties on Exports from any Indian port not being a free port.

An Act to amend Act X of 1860 (to amend Act VII of 1859, to alter the Duties of Customs on goods imported or exported by Sea.)

Preamble.

Whereas it is expedient to amend the law relating to Customs Duties; It is enacted as follows:—

Customs Duties to be levied as prescribed in the Schedules annexed to this Act.

I. From and after the passing of this Act, in lieu of the Customs Duties authorised to be charged in Act VII of 1859 (*to alter the Duties of Customs on goods imported or exported by Sea*), Act XXIII of 1859 (*to alter the rates of Duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively*) and Act X of 1860 (*to amend Act VII of* 1859, *to alter the Du-*

ties of Customs on goods imported or exported by Sea), there shall be levied and collected the Duties as contained in the two Schedules A and B annexed to this Act.

Proviso.

Provided always that nothing herein contained shall be deemed to alter the existing Duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (*for equalising the Duties on goods imported and exported on Foreign and British bottoms, and for abolishing Duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company*), and of Act VII of 1848 (*to except certain free Ports from the operation of Section III Act No. VI of* 1848, *and otherwise to amend that Act.*)

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any port of India not being a free Port.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	,,
3.	Grain and Pulse	,,
4.	Horses and other living Animals ...	,,
5.	Ice	,,
6.	Coal, Coke, Bricks, Chalk, and Stones	,,
7.	Cotton Wool.	,,
8.	Wool	,,
9.	Flax	,,
10.	Hemp	,,
11.	Jute	,,
12.	Hides and Skins, Raw	,,
13.	Books	,,
14.	Paper	,,
15.	Maps, Prints, Music, and Works of Art	,,
16.	Seeds when imported by any Public Society for gratuitous distribution ...	,,
17.	Agricultural implements	,,
18.	Machinery of all kinds	,,

And the Collector of Customs, subject to the general orders of the Government of India, shall decide what articles come within the definition of machinery, and such decision shall be final in law.

19.	Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	Free.
20.	Guano and manures of all kinds	,,
21.	Porter, Ale, Beer, Cider, and other similar fermented Liquors ...	2 annas the imperial gallon.
22.	Wines and Liqueurs... ...	2 Rupees the imperial gallon. Except light Wines of value not exceeding 12 Rupees per dozen, which shall pay 1 Rupee the imperial gallon.
23.	Spirits	3 Rupees the imperial gallon. And the duty to be rateably increased as the strength exceeds London Proof.
24.	Bottles	Free.
25.	Tobacco unmanufactured ...	20 per cent. *ad valorem.*
26.	Tobacco manufactured	20 per cent. *ad valorem.*
27.	Piece Goods ...	5 per cent. *ad valorem.*
28.	Twist	3½ per cent. *ad valorem.*
29.	All articles not included in the above enumeration	10 per cent. *ad valorem.*

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea from any Port in India not being a free Port.

1.	Bullion and Coin	Free
2.	Precious Stones and Pearls... ...	,,
3.	Horses and other living Animals ...	,,
4.	Sugar and Rum	,,
5.	Spirits	,,
6.	Tobacco and all preparations thereof	,,
7.	Tea	,,

8.	Coffee	Free
9.	Raw Silk and Silk Chussum ...	„
10.	Cotton Wool	„
11.	Wool...	„
12.	Flax	„
13.	Hemp	„
14.	Jute	„
15.	Hides and Skins, Raw	„
16.	Books	„
17.	Maps, Prints, and Works of Art ...	„
18.	Teak Timber	„
19.	Coals	„
20.	Iron...	„
21.	Grain and Pulse of all sorts ...	2 Annas the Indian Maund.
22.	Saltpetre ...	2 Rupees the Indian Maund.
23.	Indigo	3 Rupees the Indian Maund.
24.	Lac Dye and Shell Lac ...	4 per cent. *ad valorem.*
25.	All country articles not enumerated or named above	3 per cent. *ad valorem.*

GOVERNMENT OF ARRACAN AND TENASSERIM.

ACT No. XII. OF 1862.

[*Received the assent of the G. G. on the 23rd April*, 1862.

Recites the union of Arracan and Tenasserim with Pegu and Martaban under one Commissioner, and the inexpediency of continuing the functionaries under the control, &c. of the Sudder Dowanny Adawlut and Nizamut and Board of Revenue.

1. Repeals Act II, 1835, as regards Arracan and Tenasserim, except as to pending Causes.

An Act to repeal Act II of 1835 so far as it relates to the Provinces of Arracan and Tenasserim.

Preamble.

Whereas the Provinces of Arracan and Tenasserim have been united with the Provinces of Pegu and Martaban in one general administration

under a Chief Commissioner of British Burmah, and it is no longer expedient that the functionaries who are or may be appointed in the said Provinces should be under the control and superintendence of the Court of Sudder Dewanny and Nizamut Adawlut, or of the Board of Revenue; It is enacted as follows:—

Repeal of Act II of 1835 as regards Arracan and Tenasserim.

I. So much of Act II of 1835 as relates to the said Provinces of Arracan and Tenasserim is hereby repealed: provided that any appeals or other matters relating to the said Provinces, and now pending before the Court of Sudder Dewanny and Nizamut Adawlut, or before the Board of Revenue, shall be heard and determined as if this Act had not been passed.

Proviso.

SILVER AND COPPER COINAGE.

ACT No. XIII. OF 1862.

[*Received the assent of the G. G. on the* 23*rd April*, 1862.

Recites the expediency of establishing a new Silver and Copper Coinage.

1. Repeals from 1st November 1862 so much of Acts XVII 1835 as provides that only the silver coins therein mentioned shall be coined, &c. and that they shall bear the words "The East India Company"; also Act XXXI 1837; Act XXII, 1844; and XI 1854 except as to coin already issued.

2—4. Directs issue (except for Straits Settlements) of a rupee, half rupee or eight anna piece, quarter or four anna piece and eighth of a rupee or two anna piece, to be the only silver coins, and of a double pice or half anna piece or quarter of an anna, half pice or eighth of an anna, and a pie or one-third of a pie or twelfth of an anna to be &c. (3) the silver coins of the same proportionate weights and standard; and (4) the copper coins of the same weight as under the repealed Act and as stated.

5. Directs the Queen's head and name to be put on the obverse, and the name of the coin, &c. on the reverse.

6. Authorizes the Governor General in Council to make and issue the coinage with the above or other process.

7—8. Makes the rupee and half rupee a legal tender in all engagements if not reduced more than two per cent. and not clipped, &c. and (8) the quarter rupee and eighth rupee legal tenders for fractions of a rupee on the same condition.

9. Makes the copper coins legal tenders according to their assigned values for fractions of a rupee only, and in the Straits Settlements for fractions of a dollar as specified.

An Act to provide for a new Silver and a new Copper Coinage.

Preamble.

Whereas it is expedient to provide for a new Silver and a new Copper Coinage; It is enacted as follows:—

Repeal of Acts.

I. From the first day of November 1862 so much of the 1st and 2nd Sections of Act XVII of 1835 *(relating to Gold and Silver Coinage)* as provides that only the Silver Coins therein mentioned shall be coined at the Mints within the territories of the East India Company, and that such Coins shall bear on the reverse the words "The East India Company": also Act XXXI of 1837 *(relating to Coinage)*, Act XXI of 1838 *(relating to the Silver Coin)*, Act XXI of 1835, Act XXII of 1844, and Act XI of 1854 *(relating to the Copper Coin,)* shall be repealed, except as to any Act already done or Coin already coined or issued under the same.

Description of Coins.

II. From the first day of November 1862, except as provided by Act VI of 1847 *(for establishing a Copper Currency in the Settlements of Penang, Singapore, and Malacca)* in respect of Cents, half Cents, and quarter Cents, no Silver or Copper Coins, except those mentioned below, shall be coined at the Mints in British India.

Silver Coin.

A Rupee to be called the Government Rupee.
A Half Rupee.
A Quarter Rupee or Four Anna Piece.
An Eighth of a Rupee or Two Anna Piece.

Copper Coin.

A Double Pice or Half Anna.
A Pice or Quarter Anna.
A Half Pice or one-eighth of an Anna.
A Pie, being one-third of a Pice, or one-twelfth of an Anna.

Weight and Standard of Silver Coins.

III. The Rupee so coined shall be of the same weight and standard as those provided for the Company's Rupee by the said Act XVII of 1835, that is to say, the weight shall be 180 grains Troy, and the standard as follows:—$\frac{11}{12}$th or 165 grains

of pure Silver; $\frac{1}{12}$th or 15 grains of Alloy. The other Silver Coins shall be of proportionate weight and of the same standard.

Weight of Copper Coins.

IV. The Copper Coins so coined shall be of the weight prescribed for Coins of the same denominations respectively by Acts XXI of 1835 and XI of 1854, that is to say:—

The Double Pice shall weigh	200	grains Troy.
The Pice	100	,,
The Half Pice	50	,,
The Pie	$33\frac{1}{3}$	,,

Inscriptions on Coins.

V. Until the Governor-General in Council shall otherwise order under the power hereinafter reserved, the Silver and Copper Coins so coined shall bear on the obverse the likeness and the name of Her Majesty Queen Victoria, and the inscription "Victoria Queen," and on the reverse the designation of the Coins in English filled by the word "India," with such date and embellishments on each coin as the Gevernor-General in Council shall from time to time direct.

Governor-General in Council may order other devices, &c.

VI. It shall be lawful for the Governor-General in Council, from time to time, to direct the coining and issuing of all coins authorized by this Act, and to prescribe, in lieu of the likeness and inscription as heretofore prescribed, such other devices and inscriptions and embellishments for all or any of the Coins hereby authorized as, by an order in Council to be published in the Official Gazette, he may direct.

Rupee and Half Rupee to be legal tender.

VII. The said Rupee and Half Rupee shall be a legal tender in payment or on account of all engagements whatever, provided the Coin shall not have lost more than two per cent. in weight, and provided it shall not have been clipped or filled, or have been defaced or diminished otherwise than by use.

Quarter and Eighth Rupee how to be legal tender.

VIII. The Quarter Rupee and Eighth of a Rupee shall be legal tender only for the fractions of a Rupee, subject to the same provisions as in the last preceding Section mentioned.

Copper Coin how to be legal tender.

IX. The Double Pice shall be a legal tender for a thirty-second part of a Rupee or for half an Anna.

The Pice for a sixty-fourth part of a Rupee, or for one-fourth of an Anna.

The Half Pice for a hundred-and-twenty-eighth part of a Rupee, or for one-eighth of an Anna; and the Pie, one-third of a Pice, for a hundred-and-ninety-second part of a Rupee, or the twelfth of an Anna.

Provided that none of the said Copper Coins shall be a legal tender, except for the fractions of a Rupee, and except in the Settlement of Prince of Wales' Island, Singapore, and Malacca for the fractions of a Dollar, at the rate fixed by Act XVII of 1855, namely, the Pice for a hundred-and-fortieth part of a Dollar; the Double Pice for a seventieth part of a Dollar; the Pie for a four-hundred-and-twentieth part of a Dollar; and the Half Pice for a two-hundred-and-eightieth part of a Dollar.

Coin coined under former Acts still to be legal tender.

X. All Silver Coin of the weight and standard specified in the said Acts XVII. of 1835, and XXI of 1838, issued since the passing of those Acts respectively and before the first day of November 1862, and declared by those Acts respectively to be a legal tender, and all Copper Coins of the weight specified in the said Acts XXI of 1835, XXII of 1844, and XVII of 1855 issued since the passing of those Acts respectively and before the first day of November 1862, and declared by those Acts respectively to be a legal tender, shall continue to be a legal tender for the amounts thereof respectively, subject to the same conditions and provisions as under those Acts respectively, anything in this Act contained notwithstanding.

Existing Acts to continue in force.

XI. All Acts and Laws in force in British India at the time of the passing of this Act respecting the Queen's Coin, or the Silver or Copper Coin current in British India, and not repugnant to the provisions of this Act, shall be and continue in full force and effect, and shall be applied to the Silver and Copper Coin to be coined in pursuance of this Act.

XII. The words of "British India" in this Act denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

Definition of British India.

LIMITATION OF SUITS.

ACT No. XIV. OF 1862.

[*Received the assent of the G. G. on the 23rd April* 1862.

Recites expediency of postponing the operation of Act XIV, 1859 as limits the time for bringing actions for retail bills.

1. Annuls Act XIV, 1859 as to actions pending or that may be brought before 1st January 1865, for recovery of retail bills due before the passing of the said Act.

An Act to amend Act XIV of 1859 (to provide for the limitation of suits).

Preamble.

Whereas it is expedient to postpone the operation of so much of Act XIV of 1859 as limits the period for the commencement of suits for the amount of bills for articles sold by retail where the cause of action arose before the passing of that Act; It is enacted as follows:—

Suits now pending or instituted before 1st January 1865, for articles sold by retail, in cases wherein cause of action arose before the passing of Act XIV of 1859, to be tried and determined as if that Act had not been passed.

I. All suits that may now be pending or that shall be instituted before the 1st of January 1865, to recover the amount of bills for any articles sold by retail, shall, in all cases in which the cause of action arose before the passing of the said Act XIV of 1859, be tried and determined as if that Act had not been passed.

CODE OF CRIMINAL PROCEDURE.

ACT No. XV. OF 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites expediency of amending the code in regard to its extension to non-regulation territories.

1. On extension of the code to non-regulation territories, the local or general Government may vest in the Chief Executive officer of the District in criminal matters, power to try all offences not punishable with death, and to pass sentence of not exceeding seven years' imprisonment with fine, &c.

2. Invests in Sudder Courts when consisting of only one Judge all the power of two or more Judges under Section CCCXCVIII, CCCCI, and CCCCXX. of the C. C. P.

3. This Act to be read as part of the C. C. P.

An Act to amend the Code of Criminal Procedure.

Preamble.

Whereas it is expedient to amend the Code of Criminal Procedure in regard to the extension thereof to any parts of the Territories not subject to the General Regulations; It is enacted as follows:—

With what restrictions, &c., Code of Criminal Procedure may be extended to a Non-Regulation Province.

I. When, under the provisions of Section 445 of the Code of Criminal Procedure, the said Code has been or shall be extended to any part of the Territories not subject to the General Regulations of Bengal, Madras, or Bombay, it shall be lawful for the Governor-General in Council or for the local Government of such Territory to vest the Chief Officer charged with the Executive administration of a District in Criminal matters, by whatever designation such Officer is called, with power to try all offences not punishable with death, and under the provisions of the said Code to pass sentence of imprisonment of either description for a term not exceeding seven years, including such solitary confinement as is authorized by law, or fine, or both.

When Sudder Court consists of one Judge.

II. When the Sudder Court in any part of the Territories to which the said Code of Criminal Procedure has been or shall be extended as aforesaid, shall consist of a single Judge, such Judge shall have all the powers of two or more Judges of the Sudder Court under Sections 398, 401 and 420 of the said Code.

Construction.

III. This Act shall be taken and read as part of the Code of Criminal Procedure.

INCOME TAX.

ACT No. XVI. OF 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites the powers given by Act XXI. 1861 to limit the assessments for the year commencing July 31st, 1861, and the expediency of extending the same powers to the remaining three years of the Income Tax.

1 and 11 and 2—6. Empowers the Government of India to order the non-issue of the income tax assessment notices for the year commencing 31st July 1862, and (11) successively in like manner for the year 1862-1863 and in lieu of such notice a general notice, (2) in form given in Schedule shall be issued to the effect that the assessment for the coming year will be the same as for the last previous year; after which (3) the assessment officers shall proceed to make out their assessments accordingly, and (4) payment of the assessed dues may be enforced; provided however (5) that persons so minded may claim, within specified time, to be newly assessed under the provisions of the original Income Tax Act, and (6) Income Tax officers shall proceed to assess accordingly.

7—8. Reserves power to Income Tax Commissioners and Collectors to issue special notices requiring from any persons new returns for coming year and (8) all the provisions of the Income Tax Act, shall apply to such notices.

9. In case of transfer of property after date of assessment, the person in enjoyment at the date of assessment shall pay the Income Tax.

10. This Act not to apply to assessments under Schedules 3 and 4 of Income Tax Act.

11. See *Supra* 1.

12. Empowers the Income Tax Commissioners, &c., on application of persons assessable, to assess by way of composition for the remaining three years of the Act; such assessment to be final, unless procured by fraud.

13—14. Repeals Sections CXVI to CXIX of Act XXII. 1860, and (14 cl. I) exempts incomes not amounting to 500 rupees from the tax, if (cl. 2) exemption claimed in manner specified.

15. Repeals Sections CXI to CXIV of Act XXII 1860 as to keeping separate accounts of 1 per cent. of the tax, and directs that not less than 20 per cent. of the gross collections for income tax be appropriated to roads, canals and other reproductive works, &c.

16. Empowers the Government of India to prescribe the forms in which income tax returns shall be made.

An Act to limit in certain cases the amonut of assessment to the Duties chargeable after the 31st day of July 1862 under Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices) and Act XXXIX of 1860 (to amend Act XXXII of 1860), and otherwise to modify the said Acts.

Preamble.

Whereas, by Act XXI of 1861, power is given to limit in certain cases for the year commencing from the 31st day of July 1861, the amount of assessment to the Duties chargeable under Act XXXII of 1860 (*for imposing Duties on Profits arising from Property, Professions, Trades, and Offices*) and Act XXXIX of

1860 (*to amend Act XXXII* of 1860); and whereas it is expedient to give similar powers in respect of the said assessment for the whole or any of the remaining three years during which the said Acts XXXII and XXXIX of 1860 are to continue in force to raise the limit of exemption contained in Section CXVII of the said Act XXXII of 1860, and otherwise to modify the said Acts XXXII and XXXIX of 1860; It is enacted as follows —

Issue of general notice regarding the rate and amount of assessment of Duties under Schedules 1 and 2 for the year commencing 31st July 1862.

I. It shall be lawful for the Governor-General of India in Council, by an order to be published in the Government Gazette, to direct that within the Territories or any part of the Territories subject to the local Government of any Presidency or place, the general or special notices required by Sections XXXVII and XXXVIII of the said Act XXXII of 1860 shall not be issued for the year commencing from the 31st day of July 1862 in respect to the Duties contained in Schedules 1 and 2 of the said Act, and that in such Territories or part of such Territories the Returns of profits or income chargeable with Duties under the said Schedules, as prescribed by Section XXXIX of the said Act, for the year commencing as above, shall not be required; but that in the place of such notices a general notice shall be issued in such Territories or part of such Territories to the effect that, except as hereinafter provided, the assessment of the Duties contained in the said Schedules for the year commencing as above upon the several persons liable thereto, either on their own behalf or on behalf of any other person, shall be at the same rate and on the same amount at and on which such persons were or shall be assessed for the year ending on the 31st day of July 1862.

Form and publication of general notice.

II. The general notice to be issued under the last preceding Section shall be in the form appended to this Act or to the like effect, and shall fix a period of two months after which the assessments under this Act shall be made. Such notice shall be published in the Official Gazette of the Presidency or place within which it is issued, and in such other manner as the local Government shall direct, and copies of such notice shall be affixed at the several

places within such Territories or part of such Territories as are mentioned in Section XXXVII of the said Act XXXII of 1860.

Assessments to be made and recovered without requiring Returns of profits or income.

III. After the expiration of the period specified in such notice the Officers within such Territories or part of such Territories whose duty it is to make assessments under the said Acts XXXII and XXXIX of 1860, shall proceed, except as hereinafter provided without requiring the Returns prescribed by Section XXXIX of the said Act XXXII of 1860 for the year commencing from the 31st day of July 1862 in respect to the Duties contained in Schedules 1 and 2 of the said Act, to assess the several persons in their respective jurisdictions liable to the said Duties, either on their own behalf or on behalf of any other person, for the year commencing as above, at the same rate and on the same amount at and on which such persons were or shall be assessed to the said Duties for the year ending on the date above-mentioned, and shall proceed to collect and recover the amount of such assessments for the year in which the same are payable under the provisions contained in the said Act XXXII of 1860 which are hereby declared applicable to the assessments so made.

Payment of Duties.

IV. The assessment ordered to be the assessment for the year commencing from the 31st day of July 1862, under the last preceding Section, shall, in the case of every person as aforesaid, who shall not claim in any such year to be assessed for such year under Act XXXII of 1860 as hereinafter provided, be the assessment on every such person under Schedules 1 and 2 of the said Act XXXII of 1860 for the year commencing as above, and the Duties imposed by the said Acts XXXII and XXXIX of 1860 under such Schedules shall be payable on such assessment in the same manner as if it had been made on a fresh Return made under Section XXXIX of the said Act XXXII of 1860; and all the provisions of the aid Act XXXII of 1860 for the collection and enforcement of payment of Duties assessed and payable under the said Act shall be applicable to the collection and enforcement of payment of the Duties under the assessments herein provided for.

Claims to be assessed under Act XXXII of 1860.

V. If any person within such Territories or part of such Territories chargeable with the Duties contained in Schedules 1 and 2 of the said Act XXXII of 1860 or either of them, for the year commencing from the 31st day of July 1862, shall object to the assessment provided by this Act, and shall claim to be assessed under the said Act XXXII of 1860, he shall apply to the Commissioners, Collector, or Assessor within whose jurisdiction he resides, for forms of Returns of profits or income chargeable under the said Schedules or either of them, and such person shall, within the period mentioned in such general notice, deliver the Return for the year commencing as above, filled up in the manner and containing the declaration prescribed by the said Act XXXII of 1860, at the Office of such Assessor, Commissioners, or Collector, and claim to be assessed thereon in the same manner as if this Act had not passed. No such claim to be assessed under the said Act XXXII of 1860, shall be received unless made within the period aforesaid.

Mode of assessment in such cases.

VI. When any claim shall be made under the provisions of the last preceding Section within the time therein allowed, it shall be the duty of the Assessor, Commissioners, Special Commissioner, or Collector, as the case may be, to whom such claim is made, to assess the person making it on his profits or income chargeable under the said Schedules for the year commencing from the 31st day of July 1862, in accordance with the provisions of the said Act XXXII of 1860, and all the provisions of the said Act shall be applicable to the Return and Declaration made by such person and to the assessment made upon him.

Saving of issue of special notice to a person who has made no Return for the year ending 31st July 1862, &c.

VII. Nothing in this Act shall be held to debar the Commissioners of any Presidency Town or any Collector, from issuing or causing the issue of a special notice according to the form and in the manner provided by Section XXXVIII of the said Act XXXII of 1860, to any person residing within the jurisdiction of such Commissioners or Collector whom they or he shall consider liable to the Duties chargeable under the said Schedules 1 and 2 or either of them for the year commencing from the 31st

day of July 1862, but to whom a special notice requiring such person to make a Return of his profits or income under the said Schedules for the year ending on the 31st day of July 1861 shall not have been issued within such jurisdiction; or to any person to whom such special notice shall have been issued, but who shall not have been assessed to the said Duties for the said year by reason of the amount of his Profits or Income not rendering him liable to the said Duties or for any other cause; or to any person who, such Commissioners or Collector shall have reason to believe, made a fraudulent or obviously inadequate Return of his profits or income under the said Schedules or either of them for the said year, or for the year ending on the 31st day of July 1862, and who shall not have been surcharged upon such Return; or to any person who shall have been assessed to the Duties under the said Schedules or either of them on a Return of profits or income calculated upon any period less than a whole year. Provided that no notice shall be issued under this Section after the expiration of three months from the date of the general notice mentioned in Section I of this Act.

Procedure on special notice.

VIII. When a special notice shall be issued to any person under the provisions of the last preceding Section, all the provisions of the said Act XXXII of 1860 as to special notices shall apply thereto, and to any Return and Declaration made by such person and to the assessment of such person.

Case of transfer of immoveable property.

IX. When any transfer of any immoveable property, which shall have been or shall be assessed to the Duties contained in the said Schedule 1 of the said Act XXXII of 1860 for the year ending upon the 31st day of July 1862, shall have taken place subsequently to the date at which such assessment shall have been or shall be made, the person in the enjoyment of the profits or income arising from such property, at the time that the assessment of Duties thereupon for the year commencing from the 31st day of July 1862 is made, shall be liable to be assessed on the profits of such property under the rules contained in the said Act XXXII of 1860, in the same manner as if this Act had not passed.

X. This Act shall not apply to the Duties contained in Schedules 3 and 4 of the said Act XXXII of 1860, or to the assessment collection, and recovery of such Duties.

Act not to apply to Duties under Schedules 3 and 4.

XI. The Governor-General of India in Council may extend the provisions of this Act to the year commencing from the 31st day of July 1863, or the year commencing from the 31st day of July 1864, or to both of those years, and on such extension the several provisions of this Act shall *mutatis mutandis* apply to such year or years in the same manner as they apply to the year commencing from the 31st day of July 1862.

Governor-General in Council may extend this Act to the year commencing 31st July 1863, or the year commencing 31st July 1864, or both.

XII. If any person shall be desirous of compounding for the Duties mentioned in Schedules 1 and 2 or either of the said Schedules of the said Act XXXII of 1860 for the entire period of three years from the 31st day of July 1862, and shall be willing to pay the whole amount of the Duties payable under the said Schedule or Schedules for such three years at one time, he may make an application to that effect, and it shall be lawful for the Commissioners of any Presidency Town, or any Collector beyond the limits of any such Town, with the sanction of the Commissioner of Land Revenue or other Revenue Authority to whom such Collector is immediately subordinate, to assess such person under the said Schedule or Schedules (as the case may be) for each of the three years aforesaid at the rate and amount assessed on him under the said Schedule or Schedules (as the case may be) for the year ending on the 31st day of July 1861, or if such person shall have been assessed on a fresh Return made for the year commencing from the 31st day of July 1861, then at the rate and on the amount assessed on him in the said Schedule or Schedules for such year without any such addition as is provided in Section LXIX or LXX of the said Act XXXII of 1860, and the payment by such person of the aggregate amount chargeable on him for the said three years on such assessment under the said Schedule or Schedules shall be received and taken by the said Commissioners or Collector in full satisfaction and discharge of the liability of such person to assessment under the

Composition for the whole period of three years from 31st July 1862.

said Schedule or Schedules during the said three years, and shall have the effect of a final settlement by such person with the Government of India in respect of all claims whatsoever in respect of such assessment. Provided that such payment be made on or before a date to be fixed by such Commissioners or Collector and provided also that all the provisions of Section LXXV of the said Act relating to fraud shall apply to a composition under this Section.

Repeal of Sections CXVI to CXIX of Act XXXII of 1860.

XIII. From and after the 31st day of July 1862, Sections CXVI, CXVII, CXVIII, and CXIX of the said Act XXXII of 1860 shall cease to have effect, except in respect of any Duty chargeable upon any person under the said Acts XXXII and XXXIX of 1860 for either of the years commencing from the 31st July 1860 and the 31st July 1861, or for both of such years, or in respect of any assessment made under the said Acts upon any person for either or both of the said years.

The two following Sections to be in lieu of the Sections above repealed.

XIV. From the 31st July 1862, with the exception contained in the last preceding Section, the two following Sections shall stand in the place of the said Sections CXVI, CXVII, CXVIII, and CXIX of the said Act XXXII of 1860, and shall be read and construed as if they formed part of the said Act, namely:—

Exemption of persons whose annual profits or income do not amount to 500 Rupees.

(1.) No person shall be chargeable to any Duty under the said Acts XXXII and XXXIX of 1860, whose annual profits or income, from whatever source derived, estimated as in the said Act XXXII of 1860, do not amount to 500 Rupees.

Procedure in the case of persons claiming exemption under preceding Section.

(2.) Every person assessed under the said Acts XXXII and XXXIX of 1860 for the year commencing from the 1st August 1862 on an income or profits amounting to 500 Rupees, who shall claim to be exempted from payment of Duty on the ground that his income and profits do not amount to 500 Rupees, shall, within the time limited by the said Act XXXII of 1860 for delivering in the Returns and Declarations required by the said Act or within such further time as the Collector or Commissioners respectively shall, for special cause

assigned, allow, deliver or cause to be delivered to the Assessor of the place where such claimant shall reside, a notice of his claim to such exemption, together with a declaration signed by such claimant and in such form as shall be prescribed as aforesaid, declaring and setting forth therein all the particular sources from whence the income of such claimant shall arise, and the particular amount arising from each source, and also every sum of annual interest or other annual payment reserved or charged thereon, whereby the income shall or may be diminished, and also every sum which such claimant may have charged, or may be entitled to charge against any other person, on account of the Duties made payable by this Act, or which he may have deducted or may be entitled to deduct under the authority of this Act, from any payment to which he may be liable.

Repeal of Sections CXCI to CXCIV of Act XXXII of 1860.

XV. Sections CXCI, CXCII, CXCIII, and CXCIV of the said Act XXXII of 1860, which provide that separate accounts shall be kept of the one per cent. Duty under Section III of the said Act, and that the amount thereof shall be appropriated in the manner therein directed, are hereby repealed. Provided that a sum being not less than 20 per cent. of the gross sum collected on account of the Duties of 3 and 1 per cent. prescribed by Sections I and III of the said Act shall be appropriated to each Presidency, Lieutenant-Governorship, and Province under a Chief Commissioner, in the proportion which shall be determined by the Governor-General in Council, having regard to the proportion in which every such Presidency or Lieutenant-Governorship or Province under a Chief Commissioner shall contribute to the whole amount of the Duty raised under the said Act XXXII of 1860, and shall be expended by the local Governments and Chief Commissioners thereof in Roads, Canals, and other reproductive public works which have been duly sanctioned in the various Districts under them, as they may think fit, having regard to the respective contribution of such Districts.

Proviso.

Governor-General in Council to prescribe forms.

XVI. It shall be lawful for the Governor-General of India in Council, in the exercise of the powers specified in Section CCXLVI of the said Act XXXII of 1860, from time to time to prescribe

particular forms of Returns of profits and income for any part or parts of this British Territories in India. The forms so prescribed shall be published at least three times in the Government Gazette of such part or parts of such Territories, and when so published, and until they shall be altered, varied, or annulled by any subsequent order of the Governor-General of India in Council, such forms shall be observed by all persons in such part or parts of such Territories who, by the said Act are required to do the matters referred to in such forms, and all Notices given and Returns or Declarations made, and all oaths and affirmations taken or made, and all proceedings had according to such forms respectively by such persons shall, if otherwise valid, be deemed valid and effectual.

NOTICE.

Income Tax Act, Schedules 1 *and* 2.

Under the orders of the Governor-General of India in Council, Notice is hereby given that, except in the case of any person or persons to whom a special notice is issued, the assessment for the Income Tax for the year commencing from the 31st July 1862, under Schedules 1 and 2, Act XXXII of 1860, (Income Tax Act) will be the same as for the year ending on the said 31st day of July 1862; provided that if any person object to such assessment, he may apply to the Commissioners, Collector of his District, or to the Assessor of his Division, for forms of Returns of profits or income under the said Schedules, and send in his Return thereof within two months from the 31st July in that year, and he will then be assessed on such Return under the said Act XXXII of 1860.

dated

Collector or (Commissioner.)

OLD CRIMINAL LAW AND PROCEDURE REPEAL.

ACT No. XVII. OF 1862.

[*Received the assent of the G. G. on the* 1*st May*, 1862.

Recites the enactment of a Penal Code and Code of Criminal Procedure, and the expediency of repealing certain antecedent Regulations and Acts.

1—3. Repeals the Regulations and Acts set forth in Schedule annexed; so far as they provide for the punishment of offences; (2) so far as they relate to Procedure, and (3) the other Acts set forth in the Schedule to the extent expressed in the Schedule, wherever the Code of Criminal Procedure is or shall be extended.

4—5. Applies the Code of Criminal Procedure to the investigation of all offences committed before the 1st June 1862, so far as it can be applied, and vests the jurisdictions given by that Code in all Courts, &c., specified therein for the purpose of such investigation, &c.; in all places to which the Code has been extended, and (5) also applies it to offences committed in parts before the Code was extended to such parts.

6. Annuls objection to any sentence on the mere ground of the procedure having been partly according to the Code.

7. This Act not to affect sentences or orders made before it passed.

Schedule of Regulation and orders.

An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure.

Preamble.

Whereas by Act XLV of 1860 a Penal Code has been prescribed for British India, and the said Code came into operation on the 1st day of January 1862; and whereas by Act XXV of 1861 a Code of Procedure is provided for the Courts of Criminal Judicature not established by Royal Charter, and the said Code likewise came into operation on the 1st day of January 1862 in the Presidencies of Bengal, Madras, and Bombay, and was at the same time, or has since been, or hereafter may be extended to other parts of British India: and whereas it is expedient to repeal, in the manner hereinafter provided, certain Regulations and Acts relating to Criminal Law and Procedure; It is enacted as follows:—

Repeal of Regulations and Acts providing for the punishment of offences.

I. The several Regulations and Acts set forth in the Schedule hereunto annexed, so far as they provide for the punishment of offences, shall be held to have been and are hereby repealed from the 1st day of January 1862 in the Presidencies of Bengal, Madras, and Bombay, and in the other parts of British India, in which such Regulations and Acts or any of them were in force on the said 1st day of January 1862, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the said 1st day of January 1862.

Exception.

II. To the extent expressed in the Schedule annexed to this Act, the Regulations and Acts set forth therein, which are not repealed by the last preceding Section, shall, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the said 1st day of January 1862, be held to have been and are hereby repealed from the said date in the Presidencies of Bengal, Madras, and Bombay, and in the other parts of British India in which such Regulations and Acts or any of them were in force on the said 1st day of January 1862, and in which the said Code of Criminal Procedure came into operation on such date.

Repeal of Regulations and Acts not repealed by last Section, in places where Code of Criminal Procedure came into operation on 1st January 1862.

III. To the extent expressed in the Schedule annexed to this Act, the Regulations and Acts set forth therein, which are not repealed by Section I of this Act, and which were in force on the said 1st day of January 1862, in any part of British India in which the said Code of Criminal Procedure did not come into operation on the said 1st day of January 1862, shall, except in so far as they repeal the whole or any part of any other Regulation or Act, and except as to any offence committed before the date on which the said Code shall have been or shall hereafter be extended to such part of British India, be held to have been or shall be repealed in such part of British India from the date on which the said Code shall have been or shall be so extended thereto.

Repeal of the same Regulations and Acts in places where the Code of Criminal Procedure did not come into operation on 1st January 1862.

IV. In the investigation and trial of offences committed before the said 1st day of January 1862, the Criminal Courts of the several grades and the Officers of Police shall, after the passing of this Act, be guided by the provisions of the Code of Criminal Procedure, so far as the same can be applied, wherever the said Code shall be in operation at the time of such investigation or trial; and for the trial and punishment of such offences such Courts shall exercise the jurisdiction and powers vested in them under the said Code of Criminal Procedure, provided that no

Procedure and powers in the investigation and trial of offences committed before 1st January 1862.

person convicted of any such offence shall be liable to any other punishment than that to which he would have been liable had he been convicted of such offence before the said first day of January 1862, and that no such person, who shall claim the same, shall be deprived of any right of appeal or reference to a Sudder Court which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed.

Procedure in the investigation and trial in places to which the Code of Criminal Procedure is extended after passing of this Act, of offences committed before date of extension.

V. In any part of British India to which the Code of Criminal Procedure shall be extended after the passing of this Act, the said Code shall subject to the provisions of the last preceding Section, be followed in the investigation and trial of any offences committed before the date of such extension.

Saving of certain sentences passed for offences committed before Code of Criminal Procedure came into operation, by reason only of the procedure of that Code having been followed.

VI. No sentence passed before the passing of this Act for any offence which shall have been committed before the 1st day of January 1862 (or whenever the said Code of Criminal Procedure shall not have been extended to any place in British India on the said 1st day of January 1862 then before the date on which the said Code shall have been extended to such place), shall be liable to be quashed or set aside by reason only of the procedure in the investigation or trial of any such offence having been wholly or in part the procedure provided by the said Code of Criminal Procedure. Provided that, if in any such case it shall appear that the accused party has been deprived of any right of appeal or reference to a Sudder Court, which he would have enjoyed had the trial been held under any of the Regulations or Acts hereby repealed, the Sudder Court or the highest Court of Criminal Jurisdiction may call for the proceedings in the case and pass such order thereon as it may deem just and proper.

Proviso.

Saving of certain sentences passed, &c, before passing of this Act.

VII. Nothing in this Act shall affect any sentence or order passed or any proceeding held or any act done previously to the passing of this Act and in accordance with any Act or Regulation repealed by this Act.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act XIII of 1835...	... ...	The whole Act.
Act XV of 1835 ..	... ...	The whole Act.
Act XVIII of 1835	... .	The whole Act.
Act XX of 1835 ...	... ...	The whole Act.
Act VI of 1836 ..	.. ..	The whole Act.
Act XXX of 1836 ..	.. ..	The whole Act.
Act XVIII of 1837	... .	The whole Act.
Act XXI of 1837..	.. ..	Section IV.
Act XXIII of 1837	.. ..	The whole Act.
Act XXVII of 1837.. ..	.. ..	Section XII.
Act XXX of 1837,...	... .	The whole Act.
Act XXXIII of 1837	.. ..	The whole Act.
Act XXXVII of 1837.. ..	... ...	The whole Act.
Act III of 1838 ...	.. ..	The whole Act.
Act IX of 1838 ..	.. ..	The whole Act.
Act XXVI of 1838	.. ..	The whole Act.
Act II of 1839 ..	.. ..	The whole Act.
Act XVIII of 1839.	... .	The whole Act.
Act XIX of 1839...	.. ..	The whole Act.
Act I of 1840 ...	An Act for regulating the procedure on trials referred to the Court of Foujdaree Adawlut at Madras ...	The whole Act.
Act IV of 1840 ..	An Act for preventing affrays concerning the possession of land, and for providing relief in cases of forcible dispossession, within the Presidency of Fort William in Bengal ...	The whole Act.
Act V of 1840 ..	An Act concerning the oaths and declarations of Hindoos and Mahomedans ...	Sections II and III.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act XI of 1840 ...	An Act for the Presidency of Bombay, amending the law concerning prisoners sentenced to labor or solitude ...	Sections II and III.
Act XVII of 1841	An Act for amending the proceedings in appeals before the Courts of Sudder Dewanny and Nizamut Adawlut in the Presidency of Fort William in Bengal ...	Section II, so much as was not repealed by Act X of 1861.
Act XXI of 1841...	An Act for the better prevention of local nuisances ...	The whole Act.
Act XXX of 1841	An Act for repressing obstructions to justice in certain Courts of the East India Company ...	Section I.
Act XXXI of 1841	An Act for amending the provisions of the Bengal Code touching Criminal Appeals, and the revision of sentences and orders of Criminal Courts ...	The whole Act.
Act VIII of 1842	An Act for describing in Legislative Acts, with greater certainty and convenience, the Courts of the highest jurisdiction in the respective Presidencies ...	The whole Act.
Act XVIII of 1842	An Act for facilitating preliminary investigations of criminal cases connected with the collection of the revenue within the Presidency of Bombay ...	The whole Act.
Act IV of 1843 ...	An Act for amending the law concerning appeals from Justices of the Peace, and from Magistrates acting under the Statute 53 Geo. III. c. 155 ...	The whole Act.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act VII of 1843 ...	An Act for abolishing the Provincial Courts of Appeal and circuit in the Presidency of Fort Saint George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I and II, and Regulations VII and VIII of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the civil jurisdiction of such Courts ...	Sections XXVII, XXIX, XXX, XXXI, XXXII, XXXIII, XXXIV, XXXVI, XXXVII, XLI, XLII, XLIII, LI, LIV, LV, and LVI.
Act XV of 1845 ..	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department. ...	In so far as it relates to the powers of Deputy Magistrates or Judicial Officers.
Act XXIV of 1845	An Act for better prevention of the crime of dacoity ...	The whole Act.
Act III of 1844 ...	An Act for legalizing the infliction of corporal punishment in cases of petty larceny generally, and when committed by offenders of tender age ...	The whole Act.
Act XIV of 1844..	An Act for regulating the proceedings of the Sudder Courts at Fort William, Fort St. George, Bombay, and at Agra, in regard to sentences of transportation for life ...	The whole Act.
Act II of 1845 ..	An Act for regulating the punishment of adultery in the Courts of the East India Company, in the Territories subject to the Presidency of Bombay ...	The whole Act.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act X of 1845 ..	An Act for empowering Courts to issue warrants in cases of failure to serve summons ...	The whole Act.
Act XVIII of 1845	An Act for the punishment of offences committed by convicts sentenced to imprisonment for life...	The whole Act.
Act XXVII of 1845	An Act for enabling Assistant Magistrates vested with special powers to decide cases under the provisions of Act IV of 1840	The whole Act.
Act XXX of 1845	An Act for enabling Session Judges within the Madras Presidency to award fines in compensation to injured parties ...	The whole Act.
Act VII of 1846 ...	An Act regarding the deposit of diet money for witnesses in petty cases ...	The whole Act.
Act X of 1847 ..	An Act for amending Act XXX of 1836 ...	The whole Act.
Act XX of 1847 .	An Act for the encouragement of learning in the Territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called copyright therein. ...	Section IV.
Act I of 1848 ..	An Act to regulate the proceedings in certain cases of forgery ...	The whole Act.
Act III of 1848 ..	An Act for removing doubts as to the meaning of the words "thug" and "thuggee," and the expression "murder by thuggee," when used in the Acts of the Council of India ...	The whole Act.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act V of 1848 ..	An Act to amend the law regarding the taking of Mochulkas or penal recognizances ...	The whole Act.
Act XI of 1848 ..	An Act for the punishment of wandering gangs of thieves and robbers ...	The whole Act
Act XIX of 1848..	An Act for better defining the law as to revision of the sentences of subordinate Criminal Courts in the Presidencies of Bengal and Madras ...	The whole Act.
Act IV of 1849 ...	An Act for the safe custody of Criminal lunatics ...	The whole Act.
Act XIV of 1849..	An Act to punish tampering with the Army or Navy ...	The whole Act
Act VII of 1850...	An Act for better defining the law as to the removal of prisoners...	The whole Act.
Act XIII of 1850..	An Act for punishing breaches of trust ...	The whole Act
Act XVI of 1850..	An Act for the restitution of the value of stolen property ...	The whole Act.
Act XXXVIII of 1850	An Act to allow Counsel to all persons on the trial of offences..	The whole Act.
Act IV of 1851 ..	An Act for the appointment of Uncovenanted Deputy Magistrates, and for defining the duties of Deputy and Assistant Magistrates in Bombay ..	The whole Act.
Act XVI of 1851..	An Act for the trial of receivers of stolen property ..	The whole Act.
Act XXXII of 1852	An Act to facilitate the prosecution of certain Ministerial and Police Officers for certain criminal acts ...	The whole Act.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Act I of 1853 ..	An Act for providing in the Presidencies of Fort St. George and Bombay for the punishment of males of tender age for petty thefts ...	The whole Act.
Act VII of 1854 ..	An Act for the apprehension within the Territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said Territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them ...	So much of the Act as relates to warrants issued otherwise than under the provisions of the said Act.
Act X of 1854 ..	An Act for regulating the powers of Assistants to Magistrates and of Deputy Magistrates appointed under Act XV of 1843 ...	So much of Section I as recites that the order passed by any Assistant or Deputy Magistrate shall be subject to appeal, and Sections II and III.
Act XII of 1854 ..	An Act for conferring Criminal jurisdiction upon District Moonsiffs in the Presidency of Madras	The whole Act.
Act XV of 1855 ..	An Act to amend Regulation III of 1833 of the Bombay Regulations ...	The whole Act.
Act XVI of 1855...	An Act to amend the law in force in the Presidency of Bombay concerning the use of badges ...	The whole Act.
Act XIX of 1855...	An Act to amend the law relating to District Moonsiffs in the Presidency of Fort St. George..	Section V.
Act I of 1856 ...	An Act to prevent the sale or exposure of obscene books and pictures	The whole Act.

Reference to Regulation or Act	Title of Regulation or Act.	Extent of Repeal.
Act II of 1856	An Act to enable Magistrates and certain other Officers to take cognizance of certain offences without requiring a written complaint.	The whole Act.
Act IV of 1856	An Act to prevent the malicious or wanton destruction of Cattle ...	The whole Act.
Act XVII of 1856	An Act to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same ...	The whole Act
Act III of 1857	An Act relating to trespasses by Cattle ...	So much of Section XIII as provides that offences under the said Section shall be dealt with by the Police Officers according to the provisions of Section XXV Regulation XX of 1817 of the Bengal Code, Section XXVII Regulation XI of 1818 of the Madras Code, and Section XLIII, Regulation XII of 1827 of the Bombay Code.
Act VII of 1857	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George ...	Section IV.
Act XI 1857	An Act for the prevention, trial, and punishment of offences against the State ..	Sections I and II.
Act XXIV of 1859	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George ...	Sections XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII XXIX, XXX, XXXI, XXXII, XXXIII XXXIV, XXXV XXXVI, XXXVII, XXXVIII, XXXIX, XL, XLI, XLII and XLIII, and so

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
		much of the Schedule as repeals Clause I, Section XI, of Regulation XI of 1816.
Act III of 1860 ...	An Act to empower Sessions Judges to pass sentence in certain cases without reference to the Sudder Court ...	The whole Act.
Act XVII of 1860	An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders, and to make certain provisions in lieu thereof) ...	Section XI.
Act XXXV of 1860	An Act relating to the transportation of convicts ...	The whole Act.
Act XXII of 1861	An Act to amend Act III of 1857 (relating to trespasses by Cattle) ...	Sections I, II, III, IV and V.
	BENGAL.	
Regulation IX. 1793	A Regulation for re-enacting, with alterations and modifications, the Regulations passed by the Governor-General in Council, on the 3rd December 1790, and subsequent dates, for the apprehension and trial of persons charged with crimes or misdemeanors ...	Sections IV, V, VI, VII, VIII, IX, X, XI, XII, XIV, XV, XVI, XVII, XVIII, XXIII, XXVI, XXVII, XXIX, XLVII, XLVIII, XLIX, L, LI, LIII, LIV, LVI, LVII, LVIII, LXI, LXIV, LXV, LXXIV, LXXV, LXXVII, and LXXVIII.
Reg. XIII, 1793 ...	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature, and prescribing their respective duties ...	Sections IX and XI.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. XXII, 1793...	A Regulation for re-enacting with alterations and amendments, the Regulations passed by the Governor-General in Council, on the 7th December 1792, for the establishment of an efficient Police throughout the country ...	Sections X, XVI, XXII, XXXI, XXXII, XXXIII, XXXIV, and XXXVIII.
Reg. VII, 1794 ...	A Regulation for enabling one Judge of Circuit to hold the Courts for the half-yearly and monthly gaol deliveries; and for empowering one of the Judges of the Provincial Court of Appeal in each division to remain at the Sudder Station to transact certain parts of the business of the Court, whilst the other Judges are making the Circuits; and for providing against the absence or indisposition of the Judges or their Law Officers, and against vacancies in the Judicial and Law appointments ...	The whole Regulation.
Reg. XVI. 1795 ...	A Regulation for the apprehension and trial of persons charged with crimes or misdemeanors in the Province of Benares; for enabling one of the Judges, in his capacity of Judge of the Provincial Court of Appeal, to transact certain parts of the business of that Court whilst the other two Judges, as Judges	Section IV, Clause 1, in so far as it extends the provisions of Regulation IX of 1793, which are repealed by this Act, and Clauses 2, 4, and 5, and

Reference to Regulation or Act.	Tilte of Regulation or Act.	Extent of Repeal.
	of Circuit, are making the Circuits; and for providing against the absence or indisposition of any of the Judges or their Law officers and against vacancies in the Judicial or Law appointments ...	the following Sections of the Regulation.
Reg. XVII. 1795 ..	A Regulation for the establishment of an efficient Police in the Province of Benares ...	Sections X, XX, XXIX, XXX, XXXI, XXXII, and XXXV.
Reg. XXI. 1795 ..	A Regulation for preventing Brahmins in the Province of Benares establishing koorhs, wounding or killing their female relations or children, or sitting dhurna; and for preventing the tribe of Raujecoomars in that Province killing their female children ...	The whole Regulation.
Reg. II, 1796 ...	A Regulation for the guidance of the Zillah and City Magistrates in the Provinces of Bengal, Behar, Orissa, and Benares, in apprehending and bringing to trial European British subjects charged with acts which may render them liable to a Criminal prosecution ...	The whole Regulation.
Reg. IX, 1796 ...	A Regulation for the more certain ascertainment of the witnesses whom prisoners committed for trial before the Courts of Circuit may be desirous to have examined in their defence; and of the causes of the non-attendance of any witnesses named by	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	prisoners or prosecutors to give evidence before the Courts of Circuit ...	
Reg. XI, 1796	A Regulation for providing against resistance to the processes of the Zillah and City Courts and Police Officers, as well as for compelling the appearance of persons charged with acts of a Criminal nature, who may abscond, or otherwise evade the process issued against them. ...	The whole Regulation.
Reg. II, 1797	A Regulation for defining more specifically the responsibility of the landholders and farmers of land in the Province of Benares, under the charge of the Police vested in them, conformably to their engagements by Regulation XVII 1795 ...	Section III.
Reg. IV, 1797	A Regulation for making sundry alterations in, and additions to, Regulation IX. 1793 ...	The whole Regulation.
Reg. XIII, 1797 ..	A Regulation for the occasional exercise of Judicial powers by the Assistants to the Zillah and City Magistrates in the Provinces of Bengal, Behar, Orissa, and Benares ...	The whole Regulation.
Reg. XIV, 1797 ...	A Regulation for empowering the Court of Nizamut Adawlut to extend relief to certain prisoners sentenced to deyut and pecuniary fines, or to restore stolen property, or the value of it, and to remain in confinement until	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	the completion of their sentences, also for preventing sentences of the same nature in future; and for drawing the distinction between the Courts of Civil and Criminal Jurisdiction more clearly and obviously ...	
Reg. III, 1798	A Regulation for establishing annual vacations of the Civil Courts of Justice; for postponing the commencement of the half-yearly gaol deliveries during such vacations; and for establishing a fixed order of succession in the goal deliveries of the several zillahs and cities throughout the Provinces of Bengal, Behar, Orissa, and Benares ...	The whole Regulation.
Reg. II, 1799	A Regulation for monthly goal deliveries in the cities of Dacca, Moorshedabad, and Patna; and for declaring convicts who may escape from confinement during their sentences liable to transportation ...	The whole Regulation.
Reg. IV, 1799	A Regulation for the trial of persons charged with crimes against the State ...	The whole Regulation.
Reg. VIII, 1799 ..	A Regulation for certain modifications of the Mahomedan law in cases of murder; and to explain parts of Regulation XXI of 1795 and Regulation V of 1797, in cases of dhurna ...	The whole Regulation.
Reg. X, 1799	A Regulation to prevent delay in the transmission of the records	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	of trials referred to the Court of Nizamut Adawlut. ...	
Reg. III, 1801	A Regulation for putting a stop to the practice, which prevails in many parts of the Company's Provinces, of parties in Civil suits preferring unfounded accusations of perjury against the witnesses in such suits and unfounded charges of subornation of perjury against the adverse parties in such suits ...	The whole Regulation.
Reg. VIII, 1801 ..	A Regulation for modifying the Mahomedan law in certain cases of kutl khota, or accidental homicide, and in other cases of the like nature ...	The whole Regulation.
Reg. VI, 1802	A Regulation for preventing the sacrifice of children at Saugor and other places ...	The whole Regulation.
Reg. VI, 1803	A Regulation for the guidance of the Magistrates of the several zillahs in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company, in apprehending persons charged with crimes or offences, and bringing them to trial ...	The whole Regulation, with exception to Sections III and XXXIV.
Reg. VII, 1803 ...	A Regulation for the establishment of a Court of Circuit for the trial of persons charged with crimes, in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	From Section V to Section XLI, both inclusive.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. VIII, 1803 ..	A Regulation for extending the jurisdiction of the Nizamut Adawlut to the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	The whole Regulation, with exception to Sections VI, XXIV, and XXVI.
Reg. XII, 1803 ...	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	Sections XII & XLV.
Reg. XX, 1803 ...	A Regulation for the trial of persons charged with crimes against the State, in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	The whole Regulation.
Reg. XXXV, 1803..	A Regulation for the establishment of an efficient system of Police in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	Section III, Clauses 3, 4, and 5, and Section X.
Reg. L, 1803 ...	A Regulation for extending with modifications, to the Criminal Courts, the rules prescribed in Regulation IV 1793, for procuring the attendance of witnesses and requiring oaths or solemn declarations from witnesses in the Civil Courts, and for explaining those rules in their application to particular forms of oath by the Courts, Civil and Criminal..	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. LIII, 1803 ...	A Regulation for determining the punishment to be adjudged by the Crimial Courts of Judicature, in cases wherein a discretion is left by the Mahomedan law; for defining the crime and punishment of robbery by open violence; and for declaring what convicts shall be hereafter liable to transportation, or to banishment; as well as the punishment of such as may return from transportation, or escape from confinement, during the periods of their sentences ...	The whole Regulation.
Reg. III, 1804 ...	A Regulation for providing against resistance to the processes of the Zillah Criminal Courts and police Officers, as well as for compelling the appearance of persons charged with acts of a criminal nature, who may abscond, or otherwise evade the process issued against them; for rendering prosecutions instituted for the recovery of losses sustained by theft and robbery, cognizable in the Courts of Civil Judicature; and for ascertaining the responsibility in such cases of Tehseeldars of places held khaum, for amending certain parts of Regulation VI. 1803, for preventing the offence of dhurna, and for preventing the tribe of Raj Koomars killing or	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	causing the death of their female children in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	
Reg. IV, 1804 ..	A Regulation for the administration of justice in Criminal cases in the Zillah of Cuttack ...	Proviso in Section VII.
Reg IX, 1804 ...	A Regulation for altering the denomination of the Court of Circuit and the Provincial Court of Appeal for the division of the Ceded Provinces; for the administration of justice in Criminal cases, in the conquered Provinces in the Doab, and on the right bank of the river Jumna, and in the Territory ceded to the Honorable the English East India Company in Bundlecund by the Peishwa ...	So much of the Regulation as extends the whole or any part of Regulations VI, VII, VIII, XX, XXXV, and LIII of 1803, which are repealed by this Act, to the Districts mentioned in Sections III and IV; Sections V and VI, and the proviso in Section XI.
Reg III, 1805 ...	A Regulation to make further Provision for the exemplary punishment of robbery by open violence ...	The whole Regulation.
Reg VII, 1805 ...	A Regulation for extending to the conquered Provinces situated within the Doab and on the right bank of the river Jumna, and to the Territory ceded to the Honorable the English East India Company in Bundlecund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the	Section XIV.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	Nawab Vizier to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations ...	
Reg. I, 1806 ...	A Regulation for abolishing the jurisdiction of Zillah Moorshedabad, and annexing the Mehals composing it to the jurisdictions of the City of Moorshedabad and Zillah Beerbhoom; for altering the jurisdiction of the Courts of Circuit and Provincial Courts of Appeal of the Divisions of Calcutta and Moorshedabad; for fixing the order of holding the half-yearly Jail deliveries in those Divisions, and in the Divisions of Benares and Bareilly; for rescinding such parts of the existing Regulations as restrict the senior Judges of the Courts of Circuit from proceeding upon the circuit in their respective Divisions; and for extending the authority of the Courts of Nizamut Adawlut and Sudder Dewanny Adawlut in certain cases ...	Sections VI, VII, VIII, and IX.
Reg. XII, 1806 ...	A Regulation for annexing the Pergunnahs of Sonk, Sonsa, and Sahar, situated on the right bank of the river Jumna, to the jurisdiction of the Zillah of	Section III in so far as it extends the parts of Regulation IX of 1804 and Regulation VIII of 1805, and the

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	Agra, and for extending to those Pergunnahs the Laws and Regulations established for the internal Government of the Ceded and Conquered Provinces ...	other Regulations therein referred to, which are repealed by this Act.
Reg. XV, 1806 ..	A Regulation for the amendment of certain parts of the Provisions contained in Clauses 2 and 3, Section II, Regulation II, 1796, and Clauses 2 and 3, Section XIX, Regulation VI, 1803, and of the rule contained in Section VII, Regulation V, 1799 ...	The whole Regulation.
Reg. II, 1807 ..	A Regulation to provide more effectually for the punishment of perjury, subornation of perjury, and forgery ...	The whole Regulation.
Reg. IX, 1807 ..	A Regulation for explaining and amending the existing rules of Criminal process, and for defining in certain cases the powers and duties of the Police Officers, of the Zillah and City Magistrates and of their Assistants, of the Courts of Circuit, and of the Court of Nizamut Adawlut ...	The whole Regulation.
Reg XIV, 1807 ..	A Regulation for amending the system of police established in the Province of Benares and in the Ceded and Conquered provinces within the divisions of Bareilly and Benares; also for extending to those Provinces the Provisions contained in Regulation XII, 1807, for the appointment of Ameens of Police ...	Section XI, Clauses 7,8,9,10,11, and 12, Section XX, and Section XX.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. VIII, 1808 ..	A Regulation for the more exemplary punishment of robbery by open violence; and for modifying the rules in force respecting trials referred to the Court of Nizamut Adawlut ...	The whole Regulation.
Reg. I, 1810 ..	A Regulation for occasionally dispensing with the attendance and futwa of the Law officers of the Courts of Circuit ...	The whole Regulation.
Reg. VI, 1810 ..	A Regulation for defining the penalties to which zemindars and others shall be subject for neglecting to give due information of robberies, and for harbouring robbers ...	Sections III, IV, and V.
Reg. XIV, 1810 ..	A Regulation for defining the powers of the Court of Nizamut Adawlut in cases of pardon and mitigation of punishment; and for declaring the competency of the Courts of Circuit to admit prisoners to bail, in certain cases during a reference of their trials to the Nizamut Adawlut ..	The whole Regulation.
Reg. I, 1811 ..	A Regulation for making more adequate provision for the punishment of persons found guilty of the offence of breaking into houses, tents, or boats; for subjecting to exemplary punishment persons receiving or purchasing plundered or stolen property; and for granting licenses to gold or silversmiths, braziers, or coppersmiths, ironsmiths,	The whole Regulation except so much of Section X as declares Landholders and others accountable for the early communication to the Magistrate of information respecting recei-

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	pawn-brokers, retail vendors of brass or copper-wares, and pykars or itinerant dealers in second-hand articles ...	vers of stolen goods.
Reg. VII, 1811 ..	A Regulation for limiting and better defining the powers of the Police darogahs, and of zemindars invested with the charge of the Police, with respect to persons charged with or suspected of the commission of public crimes and offences ...	The whole Regulation.
Reg. X, 1811 ..	A Regulation for preventing the importation of slaves from foreign countries, and the sale of such slaves in the territories immediately dependent on the Presidency of Fort William ...	Section III.
Reg. XIV, 1811 ..	A Regulation for amending the provisions of the existing Regulations respecting the punishment of Criminals by transportation, and for modifying the rules in force regarding the Offices of Judge and Magistrate of the Twenty-four Purgunnahs ...	The whole Regulation.
Reg. III, 1812 ..	A Regulation for amending some of the Rules at present in force in regard to the conduct of inquiries into charges of a Criminal nature, and for establishing additional provisions with a view to the more effectual apprehension of Criminals ...	Sections II and III, so much of Section IV as provides a punishment for the offence mentioned in the Section, Section VI, and Section XII.
Reg. VII, 1813 ..	A Regulation for extending to the Ceded and Conquered Provin-	

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	ces the provisions contained in Regulation III, 1801, and in Section XIII, Regulation VIII, 1794, and for rescinding parts of Sections XI and XV, Regulation I, 1803 ...	Section III.
Reg. IX, 1813 ..	A Regulation for restoring the punishment of transportation ...	The whole Regulation.
Reg. VIII, 1814 ...	A Regulation for extending the provision contained in Clause 2, Section IV, Regulation III, 1812, to cases of murder, arson, and theft ...	So much of Section II as provides a punishment for the offence mentioned in the Section.
Reg. XI, 1814 ..	A Regulation to make further provision for the punishment of persons convicted of breaking into, or attempting to break into, houses, tents, boats, or other places of habitation, or into ware-houses or other places used for the custody of property, with an intent to steal ...	The whole Regulation.
Reg. XV, 1814 ...	A Regulation to define the punishment to which persons convicted of two or more offences shall, in certain cases, be subject ...	The whole Regulation.
Reg. XIV, 1816 ..	A Regulation to provide more effectually for the management of the public Jails; and to enable the Magistrates to maintain good order and discipline in those Jails; as well as among the prisoners employed on the public roads or other public works. Also to place the Jail	Sections IX and XV.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	at Alipore in the vicinity of Calcutta under the inspection and control of the Court of Nizamut Adawlut; and to provide for the transportation of convicts to the Island of Mauritius or its immediate dependencies ...	
Reg. XVII, 1816...	A Regulation for the occasional revision of the regular Police and Jail establishments, for the due support and regulation of the establishments of Chowkeedars, for amending the Rules in force for the appointment and removal of Police Officers, for modifying the constitution of the Offices of the Superintendents of Police, and for reducing the miscellaneous business of Courts of Circuit, and Court of Nizamut Adawlut ...	Section VIII, Clauses 3 and 4.
Reg. XVII, 1817..	A Regulation to provide for the more effectual administration of Criminal Justice in certain cases ...	The whole Regulation.
Reg. XX, 1817 ...	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of Darogahs and other subordinate Officers of Police; for modifying the existing rules concerning the resistance or evasion of Criminal process, and for requiring further aid to the Police in certain cases,	Clauses 3 and 4 of Section VI, Clauses 5, 6, and 7, of Section VIII, Sections IX, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXII, XXIII, XXIV, XXV, & XXVI.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	from proprietors and farmers of land and their local managers, as well as from the munduls and other heads of villages ...	
Reg. VI, 1818 ..	A Regulation for providing against the protracted confinement of persons charged with Criminal offences, during the examination of such charges before the Magistrates; and for defining the powers of the Courts of Circuit at the Sudder Stations of those Courts with respect to persons committed or held to bail by the Magistrates for trial at the periodical Sessions of Jail delivery ...	The whole Regulation.
Reg. VIII, 1818 ..	A Regulation for rescinding part of Clause 6, Section II, Regulation LIII, 1803, for modifying some of the existing rules relating to the requisition of security for good behaviour; and for providing for a revision of the cases of certain classes of prisoners detained in confinement, on failure to furnish security for their good behaviour and appearance ...	The whole Regulation.
Reg. XII, 1818 ...	A Regulation for extending the powers of the Magistrates and Joint Magistrates in the trial of persons charged with breaking into houses and other places of habitation, or into warehouses or other places used for the	

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	custody of property, with an intent to steal; or charged with theft, or with buying or receiving stolen property, knowing the same to have been stolen, or charged with escape from Jail or other place of confinement ...	The whole Regulation.
Reg. III, 1819 ...	A Regulation for extending the provisions of Section X, Regulation VIII, 1818, to robbers not being dacoits or gang robbers ...	The whole Regulation.
Reg. VII, 1819 ...	A Regulation for declaring certain misdemeanors punishable by the Magistrates, and for defining the punishment to be adjudged in such cases ...	The whole Regulation.
Reg. IV, 1820 ...	A Regulation for declaring the power of the Magistrates to give effect to Military sentences in certain cases; for providing for the more efficient exercise of the control of the Courts of Circuit over the sentences of the Magistrates in certain cases; and for amending Clause 2, Section III, Regulation XII, 1818 ...	The whole Regulation.
Reg. VII, 1820 ...	A Regulation for altering the punishment and form of trial in cases of dhurna ...	The whole Regulation.
Reg. III, 1821 ..	A Regulation for extending, in special cases, the powers of Assistants to the Magistrates, for empowering the Hindoo and	

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	Mahomedan Law Officers of the Zillah and City Courts and Sudder Ameens to try and determine petty thefts and other Criminal cases of a trivial nature, when referred to them by a Magistrate; for limiting the period of appeal in Foujdaree cases; for rescinding parts of Section XII and Section XVII, Regulation XXII, 1816; for modifying some of the rules in force relative to the rate and collection of the assessment levied for the maintenance of Chowkeedars of Police; and for vesting the Magistrates with certain powers in regard to persons travelling through or assembling within their jurisdictions under suspicious circumstances ...	The whole Regulation.
Reg. I, 1822 ..	A Regulation for amending Regulation XLIX, 1793, Regulation XXXII, 1803, and Regulation V, 1809 ...	The whole Regulation.
Reg. IV, 1822 ..	A Regulation to provide for the more effectual administration of Criminal Justice in certain cases ...	The whole Regulation.
Reg. VIII, 1822 ...	A Regulation to declare that persons charged with crimes and misdemeanors must ordinarily be brought to trial at the Foujdaree Court or Sessions of the district in which such crimes	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	or misdemeanors may be perpetrated; and to vest the Governor-General in Council and the Nizamut Adawlut with a discretionary power as to the place of trial ...	
Reg. II, 1823 ..	A Regulation for the more effectual suppression of affrays ...	The whole Regulation
Reg. IV, 1823 ..	A Regulation for declaring the intent of Section XIV, Regulation VII, 1794, and for prohibiting the judges of Circuit, holding the gaol deliveries, from trying any case in which the prisoner or prisoners may have been committed for trial by themselves in the capacity of Superintendent of Police, Magistrate, Joint Magistrate, or Assistant Magistrate, for modifying the third and fourth Clauses of Section II, Regulation XIV, 1811, and for rescinding Sections IV and V, Regulation XXIV, 1814, and Sections II and IV, Regulation XXV, 1814 ...	The whole Regulation.
Reg. VI, 1824 ...	A Regulation for defining the course of proceeding to be pursued by the Magistrates with respect to individuals charged before them with two or more offences in certain cases; for modifying Clause 2, Section 41, and for amending certain other provisions of Regulation XII, 1818 ...	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. X, 1824 ...	A Regulation for modifying and amending the rules at present in force in regard to the pardon of persons charged with or suspected of Criminal offences ...	The whole Regulation.
Reg. I, 1825 ...	A Regulation for declaring the Judicial Officers competent to superintend the execution of their own process in certain cases; and for extending to Officers entrusted with the execution of a Magistrate's warrant, or other Criminal process, the powers vested in Police Officers by certain provisions in Regulation XX, 1817 ...	The whole Regulation.
Reg. IV, 1825 ...	A Regulation for declaring the Magistrate and Criminal Courts empowered to require recognizances and security for keeping the peace in certain cases; and for explaining some of the provisions contained in Regulation VIII, 1818, relative to security for good behaviour ...	The whole Regulation.
Reg. XII, 1825 ..	A Regulation for defining the powers of the Courts of Circuit and of the Nizamut Adawlut in certain cases; for the uniform punishment of contempts of Court in any of the Courts of Judicature, Civil or Criminal; for exempting females from corporal punishment by stripes, and for discontinuing the corah as an instrument of punishment in all cases.	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. XVI, 1825 ...	A Regulation to make further provision for empowering the Courts of Circuit to pass sentence in certain cases of robbery without reference to the Court of Nizamut Adawlut ...	The whole Regulation.
Reg. I, 1828 ..	A Regulation for empowering the Governor-General in Council to commute sentences of imprisonment for life in the Alipore Jail to transportation for life to any of the British Settlements in Asia in certain cases ...	The whole Regulation.
Reg. VI, 1828 ..	A Regulation to explain the intent and meaning of certain parts of Regulation II, 1823 ...	The whole Regulation.
Reg. VIII, 1828 ..	A Regulation for enlarging the powers of the Magistrates with regard to the offence of affrays...	The whole Regulation.
Reg. VI, 1829 ..	A Regulation for extending the powers of the Magistrates and Joint Magistrates in certain cases of theft ...	The whole Regulation.
Reg. VII, 1829 ..	A Regulation for rescinding such parts of the existing Regulations as prescribe forms for periodical Reports, Calendars, Registers, or other statements to be furnished by the Civil or Criminal Authorities, and require the same to be forwarded at periods specified, and declaratory of the power to prescribe the forms of such statements vested in the Courts of Sudder Dewanny and Nizamut Adawlut, by Regula-	The whole Regulation.

Reference to Regulation or Act	Title of Regulation or Act.	Extent of Repeal
	tion X, 1796, Section III, and Regulation XX, 1803, Section III. ...	
Reg XII, 1829 .	A Regulation for modifying the provisions of Regulation XII, 1825	The whole Regulation
Reg XVII 1829 .	A Regulation for declaring the practice of Suttee, or of burning or burying alive the widows of Hindoos, illegal and punishable by the Criminal Courts ...	Sections IV and V
Reg IV, 1830 ..	A Regulation to explain the intent and meaning of Clause 4, Section III, Regulation I, 1829 ...	The whole Regulation
Reg VIII, 1830 .	A Regulation for modifying the existing rules relative to the enquiry by Magistrates and Joint Magistrates into charges of a criminal nature ...	The whole Regulation
Reg VI 1831	A Regulation for the appointment of one or more Judges, to be ordinarily stationed at Allahabad for the purpose of exercising the powers and authority of the Sudder Dewanny and Nizamut Adawlut, within the Province of Benares, the Ceded and Conquered Provinces, including the Districts of Meerut, Shaharunpore, Mozuffernuggur, and Boolundshuhur, which are now subject to the Chief Commissioner at Delhi, and the powers and authority of the Nizamut Adawlut in the Province of Kumaon and the Saugor and Nerbudda Territories	Sections XII and XIII

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. VII, 1831 ...	A Regulation for enabling the Governor-General in Council to afford relief to the Commissioners of Circuit by vesting the Zillah and City Judges, not being Magistrates, with powers to hold monthly Jail deliveries within their respective jurisdictions (whenever that measure may be deemed advisable), and for defining the powers and duties of the Judges or other Officers, not being in charge of the Office of Commissioner, who may be appointed to hold any Jail delivery while so employed ...	Sections V and VI, and so much of Section VII as relates to Session Judge.
Reg. IX, 1831 ..	A Regulation for the more speedy and efficient administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut	Sections III and IV.
Reg. II, 1832 ..	A Regulation for the better administration of Criminal justice and the Police in certain cases...	Sections II and III.
Reg. III, 1832 ..	A Regulation for extending the provisions of Regulation X. 1811 ...	Clause 2 of Section II.
Reg. VI, 1832 ..	A Regulation for enabling European functionaries to avail themselves of the assistance of respectable natives in the administration of Civil or Criminal justice, and for modifying or dispensing with futwas by Mahomedan Law Officers in certain trials ...	Sections IV, V, and VI.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. II, 1834 ..	A Regulation for abolishing corporal punishment; for substituting a fine in certain cases for a sentence of labor; and for the gradual introduction of a better system of prison discipline ...	The whole Regulation, except Section VII.
	MADRAS.	
Reg. III, 1802 ..	A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Adawlut established in the several Zillahs immediately subject to the Presidency of Fort St. George ...	Section VIII.
Reg. IV, 1802 ..	A Regulation for establishing four Provincial Courts of Appeal, for hearing appeals from decisions passed in the several Zillah Courts; and defining their powers and duties, and prescribing rules for receiving and deciding upon appeals, and other causes of which they are declared to have cognizance ...	Section XX.
Reg. VII, 1802 ..	A Regulation for the establishment of the Courts of Circuit for the trial of persons charged with crimes ...	The whole Regulation.
Reg. VIII, 1802 ...	A Regulation for establishing a Foujdary Adawlut or Chief Criminal Court for the trial of Criminal cases in the last resort ...	Sections VIII, IX, X, XI, XIII, XIV, XV, XVI, XVII, XVIII, XX, XXI, XXIII, XXIV, and XXV.
Reg. XI, 1802 ..	A Regulation for the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature...	Section VIII.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. XII, 1802 ...	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature ...	Sections XII, XIII, and XIV.
Reg. XV, 1803 ..	A Regulation for determining the punishment to be adjudged by the Criminal Courts of Judicature in cases wherein a discretion is left by the Mahommedan law, for defining the crime and punishment of robbery by open violence, and for declaring what convicts shall be hereafter liable to transportation, or to banishment, as well as the punishment of such as may return from transportation, or escape from confinement during the period of their sentences ...	The whole Regulation.
Reg. I, 1810 ..	A Regulation for providing against resistance to the processes of the Zillah Criminal Courts, as well as for compelling the appearance of persons charged with acts of a Criminal nature who may abscond or otherwise evade the process issued against them; for extending and explaining the rules contained in Section XXIII, Regulation VI, 1802, and in Section XXIII, Regulation VIII, 1802, and for putting a stop to the practice of parties in Civil suits preferring unfounded accusations of perjury against the witnesses in such	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	suits, and unfounded charges of subornation of perjury against the adverse parties in such suits ...	
Reg. VI, 1811 ..	A Regulation to provide more effectually for the punishment of perjury, subornation of perjury, and forgery, and to alter the provisions in force for the payment of a fixed reward on the conviction of public offenders...	The whole Regulation.
Reg. VI, 1816 ...	A Regulation for reducing into one Regulation the rules which have been passed regarding the Office of Native Commissioners, for modifying and extending their powers in the trial and decision of Civil suits, and for authorizing them, under the designation of District Moonsiffs, to discharge certain additional duties. ...	Section XLIX.
Reg. IX, 1816 ..	A Regulation for reducing into one Regulation certain rules which have been passed regarding the Office of the Zillah Magistrate, for modifying and defining his powers and for transferring the Office of Zillah Magistrate from the Judge to the Collector of the Zillah ...	The whole Regulation, except Sections II, III, IV, V, and XLIII, and Nos. 1 and 2 of Appendix.
Reg. X, 1816 ..	A Regulation for constituting the Judges of the Courts of Adawlut of the several Zillahs, Criminal Judges of their respective Zillahs, and for defining their powers ...	The whole Regulation, except Section XL and Appendix.

Reference to Regulation or Act.	Tilte of Regulation or Act.	Extent of Repeal.
Reg. XI, 1816 ..	A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George ...	The whole Regulation, except Sections VIII, IX, X, XII, XIII, XIV, and XLVII.
Reg. III, 1817 ..	A Regulation for explaining and modifying certain provisions of Regulations IX, X, and XI, 1816 ...	Section. II.
Reg. I, 1818 ..	A Regulation to provide for the more effectual administration of Criminal justice in certain cases, and to alter certain provisions of the Regulations in force ...	The whole Regulation.
Reg. III, 1819 ..	A Regulation to provide more effectually for the punishment of extortion, oppression, or other abuse of authority on the part of Native Officers of Police	The whole Regulation.
Reg. V, 1819, ...	A Regulation for rescinding such parts of Regulations IX, X, and XI, 1816, as disqualify servants of the Government from attesting confessions ...	The whole Regulation.
g. IV, 1821 ..	A Regulation for giving greater efficiency to the system of Police established in the Provinces subordinate to the Presidency of Fort St. George. ...	The whole Regulation, except Section VI.
Reg. II, 1822 ...	A Regulation to provide for the more effectual administration of Criminal justice in certain cases, and to alter certain provisions of the Regulations now in force ...	The whole Regulation.
Reg. VI, 1822 ..	A Regulation for extending the powers of the Criminal Judges	

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	and of the Courts of Circuit in the trial of persons charged with breaking into houses and other places of habitation, or into ware-houses or other places used for the custody of property, with an intent to steal, or charged with theft, or with buying or receiving stolen property, knowing the same to have been stolen, or charged with escape from Jail or other place of confinement ...	The whole Regulation.
Reg. I, 1824 ..	A Regulation for extending to the Criminal Courts the rules prescribed in Section VII, Regulation III, 1802, for procuring the attendance and evidence of witnesses ..	The whole Regulation.
Reg. I, 1825 ..	A Regulation to rescind Regulation I, 1822, and to alter certain other provisions of the Regulation in force, and to provide for the more prompt and effectual administration of Criminal justice in certain cases ...	The whole Regulation.
Reg. III, 1826 ..	A Regulation for the more easy conviction of the crime of perjury in certain cases ...	The whole Regulation.
Reg. II, 1827 ..	A Regulation for constituting the Assistant Judges appointed under Regulation I, 1827, Joint Criminal Judges of the zillahs in which they may be stationed, and for defining the extent to which the powers of Magistrate	Section III.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	shall be exercised by subordinate Collectors ...	
Reg. III, 1827 ...	A Regulation for empowering the Governor in Council in certain cases to direct that persons charged with crimes or misdemeanors shall be sent for trial or committal to another Court than that within the jurisdiction of which the offences charged were committed ...	The whole Regulation.
Reg. VI, 1827 ..	A Regulation for explaining the provisions of Clause 1, Section V, Regulation XV, 1803, and Clause 4, Section III, Regulation VI, 1822; for making further provisions against the offence of counterfeiting the Coin; for declaring Magistrates empowered to take recognizances and security for keeping the peace in certain cases; for enlarging the power granted to Magistrates by Clause 1, Section III, Regulation II, 1822; for modifying and amending the rules in force relating to the requisition of security for good behaviour; and for subjecting to compulsory labor persons unable to find the security required ...	The whole Regulation.
Reg. VIII, 1827 ..	A Regulation for granting to Native Judges jurisdiction in Criminal cases. ...	So much of Section IV as provides for Native Judges being guided by Regulation X, 1816, Sections V, VII, VIII, X, XI, XII, XIII, and Clauses 3 and 4 of Section XIV.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. X, 1827 ..	A Regulation for the gradual introduction of trial by Jury into the Criminal Judicature of the Territories subject to the Presidency of Fort Saint George ...	The whole Regulation.
Reg. VIII, 1828 ...	A Regulation for abolishing the use of the rattan as an instrument of punishment, and for substituting, in lieu thereof, the cat-o'-nine-tails. ...	The whole Regulation.
Reg. IX, 1828, ..	A Regulation for rescinding such parts of the existing Regulations as prescribe forms for Periodical Reports, Calendars, Registers, or other Statements to be furnished by the Civil or Criminal Courts, and require the same to be forwarded at periods specified. ...	The whole Regulation.
Reg. VI, 1829 ...	A Regulation for modifying the Enactments contained in Section VIII, Regulation I, 1825 ...	The whole Regulation.
Reg. VIII, 1829 ..	A Regulation for the punishment of the fraudulent appropriation or the unlawful and malicious obliteration or destruction of Judicial Records, and for defining the course of proceeding to be observed in bringing to trial persons charged with perjury or subornation of perjury before certain tribunals ..	The whole Regulation.
Reg. II, 1830 ..	A Regulation for abolishing the use of the corah as an instrument of punishment, and substituting, in lieu thereof, the cat-o'-nine-tails ..	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. II, 1831 ...	A Regulation for modifying the provisions contained in Regulation VIII, 1827, which require that persons committed for trial before the Court of Circuit by a Native Criminal Judge, shall be sent to the Criminal Judge, or the Joint Criminal Judge of the Zillah, in order to their being tried by the Court of Circuit ..	The whole Regulation.
Reg. III, 1831 ..	A Regulation to provide for the more effectual administration of Justice in certain cases ..	The whole Regulation.
Reg. VIII, 1831 ..	A Regulation for vesting in single Judges of the Courts of Sudder and Foujdary Adawlut, and in single Judges of the Provincial Courts of Appeal, under certain restrictions, the power now exercised by two or more Judges of those Courts respectively ..	Section V.
Reg. VIII, 1832 ..	A Regulation for rescinding Clause 2, Section VII and Section VIII, Regulation IV, 1821	The whole Regulation.
Reg. IX, 1832 ..	A Regulation for the punishment of false accusations preferred to a Head of District Police, or Police Officer vested with the powers of a Head of District Police ...	The whole Regulation.
Reg. XIII, 1832 ..	A Regulation to provide for the more effectual administration of Criminal justice in certain cases	The whole Regulation.
Reg. II, 1833 ..	A Regulation for exempting females from corporal punishment by stripes ...	The whole Regulation.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. III, 1833 ..	A Regulation for conferring upon Sudder Ameens jurisdiction in Criminal cases, and for extending the Civil jurisdiction of Registers, Sudder Ameens, and District Moonsiffs ...	Section II.
Reg. I, 1834 ..	A Regulation for the punishment of persons convicted of treason or rebellion ...	The whole Regulation.
	BOMBAY.	
Reg. II, 1827 ..	A Regulation for defining the constitution of Courts of Civil Justice and the powers and duties of the Judges and Officers thereof ...	Section XXXVI.
Reg. IV, 1827 ..	A Regulation prescribing the forms of proceeding of the Courts of Law in Civil suits and appeals, and rules for the trial of the same ..	Clause 4, Section XXXIV, also Section LII, and Sections LIV and LV.
Reg. XI, 1827 ..	A Regulation for defining the persons subject to the operation of the Regulations on Criminal Judicature, under what circumstances foreigners may be given up to the Government to which they belong, and under what circumstances Government may exercise a control over the residence and persons of emigrants and their descendants ...	The whole Regulation.
		The whole Regulation, with the following exceptions: Section I, in as far as it ap-

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. XII, 1827 ..	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, for providing rules for its administration, and for defining the duties and powers of all Police Authorities and servants.	plies to the Zillah Magistrate; Clause 1 of Section III, in as far as it relates to the Police functions of the Zillah Magistrate; Cl. 2, of Sec. III; Cl. 5 of the same Section in as far as it extends to the Zillah Magistrate; Section IV in as far as it extends to Assistant Collectors in charge; Section VI; Clause 4 of Section X; Clause 1 of Section XIII, in as far as it regulates the endorsement and record of warrants issued by Magistrates; Clauses 1, 6, 7, and 8 of Sec. XIX; Sec. XX; Cl. 1 of Sec. XXII, in as far as it relates to the superintendence of Village Police; Clause 2 of Section XXVII; Section XXX; Clause 4 of Section XXXI; Sections XXXVII, and XL; and Chapter VI.
Reg. XIII, 1827 ..	A Regulation for defining the constitution of Courts of Criminal Justice, and the functions and proceedings thereof ...	Sections IV, V, VI, X, XI, XII, and XIII; Chapters III and IV; Sections XXIX and XXX; Clauses 1 and 2, Section XXXI; Clause 3 of Section XXXIII, and the whole of Chapter VI, except Clause 3 of Section XXXIV, in as far as it authorizes the occasional substitution of a letter for a summons, and except Clause 9 of the same Section. Clause 2 of Section XXXVI and Clauses 1 and 2 of Section XLIII.

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
Reg. XIV, 1827 ..	A Regulation for defining crimes and offences, and specifying the punishments to be inflicted for the same ...	The whole Regulation, except Cl. 2 of Section III, and Sections XX and XXIII.
Reg. XV, 1827 ...	A Regulation containing rules under which landholders may be invested with Police authority within their respective lands, or other convenient limits and deprived of the same; and declaring the mode of procedure to be followed in regard to them in Criminal matters.	The whole Regulation.
Reg. XXIII, 1827...	A Regulation imposing certain restrictions on money transactions between persons filling certain Civil Offices and others, and on the employment of individuals with whom they may have such transactions by the said Officers in official capacities; on the possession of landed property by Europeans and Americans, and on the general use of Uniforms and Badges ...	The whole Regulation.
Reg. XXX, 1827 ..	A Regulation enacting certain modifications of Regulations XII, XIII, XIV, and XV, of 1827 with reference to the Zillahs of Poona and Ahmednuggur ...	The whole Regulation.
Reg. XVII, 1828 ..	A Regulation to provide for the punishment of the crime of conspiracy ...	The whole Regulation.
Reg. III, 1830 ...	A Regulation rescinding Regulations VIII and XII of 1828,	

Reference to Regulation or Act.	Title of Regulation or Act.	Extent of Repeal.
	and vesting the Criminal Judges with the powers and functions of Session Judges ...	The whole Regulation, except Sections II, IV, VI, and VII.
Reg. IV, 1830 ..	A Regulation rescinding such parts of Regulation XII of 1827, as vest the Criminal Judge with Police Jurisdiction of the Magistrate and his Assistants ...	The whole Regulation, except Clause I of Section I. and Section II.
Reg. XVI, 1830 ..	A Regulation to rescind that part of Clause 2, Section XXVI, Regulation XIV, 1827, which exempts persons assisting at rites of self-immolation from the penalty of murder; and declaring the punishments to which persons shall be liable who may assist or use force or violence in the commission of such acts ...	The whole Regulation.
Reg. XIX, 1830 ...	A Regulation providing for the appointment of a Joint Session Judge within the Zillah of Poona ...	The whole Regulation.
Reg. V, 1831 ...	A Regulation for making persons effecting an escape from custody, unaccompanied by force, liable to the penalties prescribed in Regulation XIV, Section XXIV, 1827 ...	The whole Regulation.
Reg. VIII, 1831 ..	A Regulation for modifying the jurisdiction of Session Judges and Judicial Commissioners ...	The whole Regulation, except Section I.
Reg. IX, 1831 ...	A Regulation for modifying the rules under which Landholders may be invested with Police jurisdiction ...	The whole Regulation.

Reference to Regulation or Act	Title of Regulation or Act.	Extent of Repeal.
Reg III, 1833 ..	A Regulation for the more efficient administration of Police in certain large Towns situated in the Zillahs subordinate to Bombay...	The whole Regulation,
Reg VII, 1833 .	A Regulation for modifying the provisions in force for the trial and punishment of persons exceeding twelve in number assembling for riotous or rebellious purposes, not amounting to treason; and for defining the tribunal before which persons committing offences under the designation of unlawful attempts to alter the established laws, or disturbing the peace of Foreign States, may be tried ...	The whole Regulation.
Reg. VIII, 1833 ..	A Regulation for modifying Section IX of Regulation III, 1830, and introducing a more suitable arrangement for the performance of the annual Circuit by the Judicial Commissioners ...	The whole Regulation.

CALCUTTA HIGH COURT. CRIMINAL PROCEDURE.

ACT No. XVIII OF 1862.

[*Received the assent of the G. G. on the* 1*st May*, 1862.

Recites that in consequence of the passing of the I. P. C. Act XVI, 1852, has become partially inapplicable, and that it is expedient to repeal the said Act and re-enact parts thereof, &c.

1. At the trial in case of variance between the indictment and evidence Court may allow amendment, if it would not prejudice the defence, on such terms as to postponing trial, &c., and having new jury, &c., as may be reasonable, &c.; recognizances of prosecutor and witnesses to be respited, and fresh ones not necessary.

2—3. Indictment for Criminal breach of trust under sec. 405, or sec. 407,

or sec. 408, or cheating under sec. 420 may be amended by charging the offences respectively under sec. 378, or sec. 381.

4. Indictment for theft under sec. 378 or sec. 380 may be amended by charging dishonest misappropriation of property under sec. 403, or C. B. of Trust under sec. 405.

5. Indictment for theft under sec. 381 may be amended by charging dishonest misappropriation of property under sec. 403, or sec. 404, or C. B. of Trust under sec. 405 or sec. 408.

6—7. Amended indictment to be of same force and effect as the original one; and (7) formal record when drawn up shall be of the amended indictment.

8. Under indictment for theft, proof of moving the property in order to a dishonest taking shall be sufficient for a conviction.

9—10. The manner and means of causing or attempting to cause death, need not be stated in indictment for culpable homicide or the attempt; and (10) in indictment for murder, the charge may be of (*a*) doing an act with intention of causing death, &c. or (*b*) with the intention of causing bodily injury, &c. or (*c*) knowing it to be imminently dangerous, &c., or (*d*) knowing it to be likely to cause death, &c. without excuse for incurring such risk; and in indictment for abetting murder, abetment may be simply charged.

11. Under indictment for murder, the jury may find verdict of culpable homicide not amounting to murder.

12. Under indictment for murder of a child jury may find verdict of intentionally concealing birth, &c. under sec. 318.

13—14. In indictment for grievous hurt the kind of grievous hurt needs not be stated; and (14) under indictment for grievous hurt or hurt under secs. 336, 337, 338, jury may convict though death was caused or the offence proved amounted to culpable homicide.

15. In indictment, instrument or document necessary to be mentioned may be described by name and need not be set out.

16. In indictment for offence with intent to defraud, allegation and proof of intent generally sufficient.

17. Under indictment for an offence, the conviction may be of an attempt if an act was done towards its commission, and it was not completed.

18. Under indictment for criminal misappropriation of property conviction may be of theft.

19. Under indictment against several persons as joint receivers, any one or more may be convicted on proof of any receiving.

20. Abetters may be convicted without previous conviction or trial or commitment of the offender in chief, and may be indicted, &c. with or without such offender, and may be tried either where such offender might be tried, or where the abetment was committed, or any act in pursuance of it was done.

21. Receivers of stolen property, property criminally misappropriated, or

converted by criminal breach of trust, may be indicted as for substantive offences independently of the original offender.

22. Indictment may be for several different kinds of offences, but the judge may direct them to be tried separately as if charged separately.

23. In trial for theft evidence may be given under one indictment of several takings or movings in order to take not exceeding three in number, if committed within six months.

24. In indictment for giving or fabricating or using or attempting to use false evidence or for any offence punishable as such, or for abetment or attempt, it shall be sufficient to set forth the substance of the offence charged without the specified formal circumstances.

25. Money of any kind, Bank notes, and Government notes payable on demand may be described in indictment as money, and indictment for obtaining money by cheating may be sustained, though there was a bailment of part of the money for a purpose carried out.

26—27. Neither the general exceptions in Chap. IV. of the I. P. C. nor the exceptions contained in sections 136, 300, 323, 324, 325, 326, 375, 499 need be negatived in an indictment, but the defendant may give evidence of them in defence; and (27) in proving himself within the 2nd, 3rd, 5th, 6th, 7th, 8th, 9th and 10th exceptions of sec. 499, good faith shall be presumed till the contrary appears.

28. The words of the Code in an indictment shall be understood in the same sense as in the Code.

29—33. Gives the Supreme Court jurisdiction to try for a murder or homicide, if the death took place or the offence commenced or was completed in Calcutta; and (30) for any other offence if the offence commenced or was completed in Calcutta or (31) if when composed of acts and consequences, either any of the acts or consequences were in Calcutta; and (32) for receiving or retaining stolen property, if the property was received or retained in Calcutta, or if the theft was wholly or in part committed in Calcutta; and (33) for dishonestly concealing, &c. property under sec. 424 of I. P. C. if the concealment was in or removal from Calcutta.

34—35. Offences committed wholly or in part on the boundary may be tried in Calcutta, in case of doubt on which side of the boundary it was committed; and (35) offences committed on a journey or voyage may be tried in Calcutta, if any part of the journey or voyage was performed in Calcutta.

36. In case of escapes from lawful custody, the trial may be in Supreme Court, if the escape was from, or the recapture or former trial was in Calcutta.

37. The Justices of Calcutta may deal with all persons charged with offences triable in virtue of this Act by Supreme Court.

38. Former conviction or acquittal before a court of competent jurisdiction in virtue of this Act to bar subsequent trial.

39. Sections 10, 12, 13, 14, 15, 16, 18 and 23 of 9 Geo. 49 Chap. 74 shall

apply to offences under I. P. C.; section 5 to include murder and culpable homicide; and the words felony and misdemeanors in sec. 110 to extend to any dishonest offence against property under the I. P. C.

40. No indictment to be held insufficient for specified formal defects nor for specified misnomers of persons, nor for error in allegations of dates, values, damages, &c. where value, &c. is not of the essence of the offence.

41. Objection to indictment for want of certainty or any formal defect shall be taken by demurer or motion to quash, &c. and defect may be amended, &c.

42. Takes away the right of defendants to traverse, but empowers the Court on application to adjourn the sessions or postpone the trial on terms, and to respite the recognizant, &c.

43. Sufficient in plea of antrefois acquit or convict to state that the defendant has been lawfully convicted or acquitted.

44—46. Charge under sec. 497 of I. P. C. shall only be instituted by the husband; and (45) under sec. 498 only by the husband or person having care of the woman on behalf of the husband; and (46) at the trial under either of those sections, these conditions shall be proved, and on failure of proof the indictment shall be quashed.

47—51. Persons sentenced to rigorous imprisonment shall, and (48) persons sentenced to penal servitude shall for intermediate custody be imprisoned in the House of Correction, and (49) if the House of Correction is not under the control of the Sheriff shall be sent there under a warrant signed by the Sessions Judge; and (50) all constables shall aid the Sheriff in carrying such persons to the House of Correction; and (51) the Sheriff shall be absolved from all responsibility for persons in the House of Correction.

52—53. Persons sentenced by I. P. of the Presidency Towns to rigorous imprisonment shall be committed to the House of Correction; and (53) prisoners there at the date of this Act shall be deemed, &c. to be in the custody of the officer having control, &c. of the House of Correction.

54—55. This Act to take effect immediately in existing Supreme Court in Bengal and (55) in Madras and Bombay and in any court to which the criminal jurisdiction of those courts shall be extended and to all indictments and proceedings therein under the I. P. C.

56. Repeals Act XVI, 1852 so far as it relates to indictments in such courts except as to offences not under the I. P. C.

57. Definition of terms, "indictment," "finding of the indictment and import of number and gender; description of Acts done to include omissions; "British India;" "Property."

An Act to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature.

Preamble.

Whereas, in consequence of the passing of the Indian Penal Code, many of the provisions of Act XVI of 1852 (*for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company*) have become inapplicable and others require amendment, and it is expedient to repeal the said Act and, pending the preparation of a Code of Criminal Procedure for Her Majesty's Supreme Courts of Judicature, to re-enact some of the provisions of the said Act, and to make further provision for the administration of Criminal Justice in such Courts; It is enacted as follows :—

Court may amend certain variances not material to the merits of the case and by which the defendant cannot be prejudiced in his defence, and may either proceed with or postpone the trial to be had before the same or another jury.

I. Whenever, on the trial of an indictment for an offence, there shall appear to be a variance between any statement in such indictment and the evidence offered in proof thereof, it shall be lawful for the Court before which the trial shall be had, if it shall consider that by the amendment of the indictment the person indicted will not be prejudiced in his defence on the merits, to order such indictment to be amended, according to the proof, by some Officer of the Court or other person both in that part of the indictment where such variance occurs, and in every other part of the indictment which it may become necessary to amend, on such terms as to postponing the trial if the person indicted apply for a postponement, and ordering the same to be had before the same or another Jury, as such Court shall think reasonable; and after any such amendment the trial shall proceed, whenever the same shall be proceeded with, in the same manner in all respects and with the same consequences both with respect to the liability of witnesses to be indicted for giving false evidence and otherwise, as if no such variance had occurred. Provided that in any such case, where the trial shall be so postponed as aforesaid, it shall be lawful for such Court to respite the recognizances of the prosecutor and witnesses, and of the person indicted and his surety or sureties (if any), in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence respectively, and the person indicted shall be bound to attend to be tried at the time and place to which such

trial shall be postponed, without entering into any fresh recognizances for that purpose, in such and the same manner as if they were originally bound by their recognizances to appear and prosecute, or give evidence at the time and place to which such trial shall be so postponed. Provided also that, where any such trial shall be ordered to be had before another Jury, the Crown and the person indicted shall respectively be entitled to the same challenges as they were respectively entitled to before the first Jury was sworn.

On trial for criminal breach of trust and other offences, if the offence be theft, the Court may order indictment to be amended.

II. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or the offence of cheating and thereby dishonestly inducing the person deceived to deliver property under Section 420 of the said Code, or of criminal breach of trust as a carrier, wharfinger, or ware-house keeper under Section 407 of the said Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, the Court may order the indictment to be amended under the provisions of Section I of this Act

Similar power of amendment in cases of criminal breach of trust as a clerk or servant.

III. If, upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, evidence shall be given to prove that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, the Court may order the indictment to be amended under the provisions of Section 1 of this Act.

Similar power of amendment in cases of theft or of theft in a building, tent, or vessel.

IV. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent or vessel under Section 380 of the said Code, evidence shall be given to prove that, in respect of the property stated in the indictment, such person was guilty of the offence of dishonest misappropriation of pro-

perty under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, the Court may order the indictment to be amended under the provisions of Section I of this Act.

Similar power of amendment in cases of theft as a clerk or servant.

V. If, upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the Indian Penal Code, evidence shall be given to prove that such person was guilty of the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, in respect of the property stated in the indictment, the Court may order the indictment to be amended under the provisions of Section I of this Act.

Verdicts and judgments valid after amendments.

VI. Every verdict and judgment which shall be given after the making of any amendment under the provisions of this Act, shall be of the same force and effect in all respects as if the indictment had originally been in the form in which it is after such amendment shall have been made.

Records to be drawn up in amended form, without noticing the amendments.

VII. If it shall become necessary at any time, for any purpose whatsoever, to draw up a formal record in any case where any amendment shall have been made under the provisions of this Act, such record shall be drawn up in the form in which the indictment is after such amendment shall have been made, without taking any notice of the fact of such amendment having been made.

Form of indictment in cases of theft.

VIII. In an indictment for theft the person indicted may be charged with having dishonestly taken the property stated in the indictment

out of the possession of the person mentioned therein without that person's consent, and in support of such allegation it shall be sufficient to prove that the person indicted, intending to take dishonestly such property out of the possession of the person mentioned in the indictment, without that person's consent moved that property in order to such taking.

The means by which the injury was inflicted need not be specified in indictments for murder and culpable homicide.

IX. In an indictment for murder or culpable homicide not amounting to murder, or for abetting murder or culpable homicide not amounting to murder, or for attempting to commit murder which shall be preferred after this Act shall come into operation, it shall not be necessary to set forth the manner in which, or the means by which, the death of the deceased was caused or attempted to be caused.

Form of indictment in cases of murder.

X. In an indictment for murder it shall be sufficient to state that the person charged with the offence did murder the deceased by doing an act with the intention of causing the death of a human being, or, as the case may be, by doing an act with the intention of causing such bodily injury to the deceased as the offender knew to be likely to cause the death of the deceased, or by doing an act with the intention of causing bodily injury to some person, and that the bodily injury intended to be inflicted was sufficient in the ordinary course of nature to cause death, or by doing an act knowing it to be so imminently dangerous that it must in all probability cause the death of a human being, or such bodily injury as was likely to cause the death of a human being, and committing such act without any excuse for incurring the risk of causing death or such injury as aforesaid, and in any indictment for abetting murder or for attempting to commit murder, it shall be sufficient to state that the person charged with the offence abetted the murder of the deceased or attempted to murder the deceased as the case may be.

Upon indictment for murder, Jury may find the accused guilty of culpable homicide not amounting to murder.

XI. Upon an indictment for murder, the Jury may find the person charged with the offence not guilty of murder, but guilty of culpable homicide not amounting to murder.

XII. Upon an indictment for the murder of a child, the Jury may find the person indicted not guilty of murder, but guilty of intentionally concealing or endeavouring to conceal the birth of such child under Section 318 of the Indian Penal Code, and the person so found guilty shall be liable to be punished under the said Section of the said Code.

Upon indictment for murder, Jury may find the accused guilty of concealing, or endeavouring to conceal, the birth of a child.

XIII. It shall not be necessary in an indictment for voluntarily causing grievous hurt to specify the particular kind of grievous hurt.

Not necessary to specify the particular kind of grievous hurt.

XIV. Upon an indictment for voluntarily causing grievous hurt or for voluntarily causing hurt to any person, or for an offence under Section 336, 337, or 338 of the Indian Penal Code, the person indicted shall not be entitled to be acquitted upon the ground that the hurt caused the death of the person injured, or that the person indicted was guilty of culpable homicide.

Provision for cases of trial for causing grievous hurt and other similar offences.

XV. In an indictment in which it shall be necessary to mention any instrument or document, or to make an averment or allegation respecting any instrument or document, it shall be sufficient to describe such instrument or document by any name or designation by which the same is usually known, or by the purport thereof, without setting out any copy or *fac-simile* thereof or otherwise describing the same or the value thereof.

Form of indictment in cases respecting instruments or documents.

XVI. In an indictment in which it shall be necessary to allege an intent to defraud, it shall not be necessary to allege or prove an intent to defraud any particular person, but it shall be sufficient to allege and prove an intent to defraud.

Intent to defraud particular person need not be alleged or approved.

XVII. If, on the trial of any person charged with any offence, it shall appear to the Jury upon the evidence that the person charged did not complete the offence charged, but was guilty of an offence within the meaning of Section 511 of the Indian Penal Code by attempting to commit such offence,

A party indicted for an offence may be found guilty of an attempt to commit the same and shall be liable to the same consequences as if charged with and convicted of the attempt only. No person so tried to be afterwards prosecuted for the same.

or to cause such offence to be committed, and in such attempt doing an act towards the commission of such offence, such person shall not by reason thereof be entitled to be acquitted, but the Jury shall be at liberty to return as their verdict that the person accused is not guilty of the offence charged, but is guilty of an attempt to commit the same within the meaning of Section 511 of the Indian Penal Code, and the offender so found guilty shall be liable to be punished in the same manner as if he had been convicted upon an indictment framed under the said Section for attempting to commit the particular offence charged in the indictment, and no person so tried as herein lastly mentioned shall be liable to be afterwards prosecuted for an attempt to commit the offence for which he was so tried.

If person indicted for criminal misappropriation be proved guilty of theft.

XVIII. If, upon the trial of any person indicted for criminal misappropriation of property, it shall be proved that he was guilty of committing theft of such property, he shall not by reason thereof be entitled to be acquitted of the offence charged against him.

Upon an indictment for jointly receiving, persons guilty of separately receiving may be convicted.

XIX. If, upon the trial of two or more persons indicted for jointly receiving stolen property, it shall be proved that one or more of such persons separately received any part of such property, it shall be lawful for the Jury to convict upon such indictment such of the said persons as shall be proved to have received any part of such property.

Abettor of an offence may be indicted and punished in the absence of the principal.

XX. A person may be indicted and punished for abetting an offence which has been committed in consequence of the abetment, notwithstanding the person who committed the offence shall not have been indicted or found guilty, or shall not be in custody or amenable to justice, and every abettor of an offence may be indicted, tried, and punished for the abetment as a substantive offence, and may be tried either jointly with the principal offender or separately, and punished by any of Her Majesty's Supreme Courts of Judicature which would have power to try the principal offender, or which would have power to try the abettor if he had committed the offence himself, either in the place in which he is guilty of the abetment, or in the place in

which any act shall have been committed in pursuance of the abetment.

Receiver of stolen property may be indicted and punished in the absence of the principal.

XXI. A person may be indicted and punished for dishonestly receiving or retaining stolen property notwithstanding the person by whose offence the possession of such property shall have been transferred, or who shall have criminally misappropriated such property or committed criminal breach of trust in respect thereof shall not have been found guilty of such offence, or shall not be in custody or amenable to justice.

Insertion of several counts in the same indictment against the same person.

XXII. It shall be lawful to insert several counts in the same indictment against the same person for different offences. But the Judge, before whom the person indicted shall be tried may direct that any one or more of the counts shall be treated as a distinct indictment or indictments, and that the person indicted shall be tried thereupon in the same manner as if such count or counts had been in separate and distinct indictments.

If the property alleged in an indictment for theft appear to have been taken at different times, prosecutor need not elect, unless where more than three takings, or more than six months between the first and last taking.

XXIII. If, upon the trial of an indictment for theft, it shall appear that the property alleged in the indictment was taken or moved at different times, the prosecutor shall not by reason thereof be required to elect upon which taking or moving he will proceed, unless it shall appear that there were more than three takings or movings, or that more than the space of six calendar months elapsed between the first and the last of such takings or movings, and in either of such last mentioned cases, the prosecutor shall be required to elect to proceed for such number of takings or movings not exceeding three as shall appear to have taken place within the period of six calendar months from the first to the last of such takings or movings.

Form of indictment for giving or fabricating false evidence, &c.

XXIV. In an indictment for giving or fabricating false evidence, or for using or attempting to use false or fabricated evidence, or for any offence which by the Indian Penal Code is declared to be punishable in the same manner as the offence of intentionally giving false evidence or for abetting or attempting to commit any of the offences aforesaid, it shall be sufficient to set

forth the substance of the offence charged, without setting out any part of any proceeding either in law or in equity and without setting forth the commission or authority of the Court or person before whom such offence was committed.

Coin and Bank or Government Notes may be described simply as money.

XXV. In an indictment in which it shall be necessary to make any averment as to any money, or any note of any Bank, or any note of Government payable on demand, or which by any law is or shall be declared to be a legal tender, it shall be sufficient to describe such money or note simply as money without specifying any particular coin or Bank or other note, and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any such note as aforesaid, although the particular species of coin of which such amount was composed, or the amount, number, or other particulars of the note, shall not be proved, and in cases obtaining money or any such note or notes as aforesaid by cheating by proof that the offender obtained any piece or pieces of coin, or any such note or notes, or any portion thereof, or of the value thereof by cheating, although such piece or pieces of coin or note or notes may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person or persons, and such part shall have been returned accordingly.

Absence of general exceptions under the Penal Code to be assumed.

XXVI. It shall not be necessary to allege in an indictment any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the general exceptions contained in Chapter IV of the Indian Penal Code, or within the exceptions contained in Section 136, Section 300, Section 323, Section 324, Section 325, Section 326, Section 375, or Section 499 of the said Code, but every charge shall be understood to assume the absence of all such circumstances, and it shall not be necessary on the part of the prosecutor to prove at the trial the absence of such circumstances in the first instance; but the person indicted shall be entitled to give evidence of the existence of any such circumstances, and

Evidence as to general exception.

evidence in disproof thereof may then be given on the part of the prosecutor.

Good faith to be presumed in certain cases.

XXVII. In proving the existence of circumstances as a defence under the 2nd, 3rd, 5th, 6th, 7th 8th, 9th, or 10th, exception to Section 499 of the Indian Penal Code, good faith shall be presumed unless the contrary appear.

Words in indictments to be taken in the sense of the Penal Code.

XXVIII. In every indictment, words used in describing an offence, shall be deemed to have been used in the sense attached to them by the Indian Penal Code.

Trials for murder or culpable homicide if the act which caused or the death took place within the jurisdiction.

XXIX. Any person accused of murder, or of culpable homicide not amounting to murder, may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the act which shall have caused the death shall have been committed wholly or partly within the local limits of the jurisdiction of such Court, or if the death shall have taken place within such local limits in the same manner as if both the act had been committed and the death had taken place within such local limits.

Supreme Court may deal with offence either commenced or completed within local jurisdiction.

XXX. Any person accused of an offence may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence shall have been either commenced or completed within the local limits of the jurisdiction of such Court in the same manner as if the offence had been wholly and entirely committed within such local limits.

Offence may be dealt with if either the act was done or the consequence ensued within the jurisdiction.

XXXI. Whenever the offence of which any person shall be accused, shall consist of any thing which has been done and of any consequence which has ensued therefrom, the person accused may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature if either the act shall have been done or the consequence shall have ensued within the local limits of the jurisdiction of such Court in the same manner as if both the act had been done and the consequence had ensued within such local limits.

Receiving stolen property, when part only of the offence is committed within the jurisdiction.

XXXII. Whenever a person shall be accused of any offence punishable under Section 411, 412, 413, or 414, of the Indian Penal Code in respect to the receiving or retaining of stolen property, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the offence by which the possession of the property shall have been transferred, shall have been committed either wholly or in part within the local limits of the jurisdiction of such Court, or if any of the stolen property shall have been received or retained by the person accused within such local limits.

Similar provision as to dishonest removal or concealment of property.

XXXIII. If any person shall be accused of any offence under Section 424 of the Indian Penal Code of dishonestly or fraudulently concealing or removing any property of himself, or of any other person, or of dishonestly or fraudulently assisting in the concealment or removal thereof, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if the property shall have been concealed or removed in any place within the local limits of such Court or shall have been removed from any place within such local limits.

Provision for cases on the boundaries or near the boundaries of local jurisdiction.

XXXIV. If any act shall have been committed or the consequence of any act shall have ensued on the boundaries of the local jurisdiction of such Court or so near to such boundaries as to render it doubtful whether such act was committed or such consequence ensued within such local limits or not, such act or consequence may for all purposes be stated, deemed, and taken to have been committed or to have ensued within such local limits.

Provision for the case of offences committed on a journey or voyage.

XXXV. If any person shall be accused of any offence alleged to have been committed on a journey or on any voyage in British India, such person may be dealt with, tried, and punished by any of Her Majesty's Supreme Courts of Judicature, if any part of the journey or voyage shall have been performed within the local limits of the jurisdiction of such Court.

Escape from lawful custody under sentence.

XXXVI. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice or by virtue of a commutation of such sentence, or shall be charged with any offence declared to be punishable under Section 227 of the Indian Penal Code or under Section XII of Act XXIV of 1855 (*relating to Penal servitude,*) the person accused may be dealt with, tried and punished by any of Her Majesty's Supreme Courts of Judicature, if such person shall be apprehended and retaken within the local limits of the jurisdiction of such Court, or if he was formerly tried by such Court, or, in the case of an escape from custody, if he shall have escaped from custody in any place within such local limits.

Justices of Peace may deal with such offences.

XXXVII. Every Justice of the Peace shall have power to deal with any person charged with an offence for which he is liable under this Act to be tried, by one of Her Majesty's Supreme Courts of Judicature, in the same manner as if such offence had been wholly and entirely committed within the local limits of such Court.

A former conviction or acquittal before a competent Court to be a bar to subsequent trial or conviction.

XXXVIII. A former conviction or acquittal before a Court of competent jurisdiction of any offence hereby made punishable by Her Majesty's Supreme Courts of Judicature, shall be a bar to any subsequent trial or conviction for the same offence.

Certain provisions of 9th Geo. 4 c. 74 shall be deemed to apply to and include offences punishable under Penal Code.

XXXIX. The provisions of Sections 10, 12, 13, 14, 15, 16, 18, and 23 of the 9th Geo. 4 c. 74, intituled "An Act for improving the administration of criminal Justice in the East Indies," shall be deemed to apply to and to include any offence punishable under the Indian Penal Code. Section 5 of the said Act shall be deemed to include murder or culpable homicide not amounting to murder; and the words felony or misdemeanor in Section 110 of the said Act shall be deemed to extend to and include any offence declared to be punishable under the Indian Penal Code by means of or in consequence of which the possession of property shall have been transferred.

No indictment to be held insufficient for immaterial errors.

XL. No indictment for any offence shall be held insufficient for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record" or of the words "with force and arms," or of the words "against the peace," nor for the insertion of the words "against the form of the statute" instead of "against the form of the statutes" or *vice versâ*, nor because any person mentioned in the indictment is designated by a name of Office or other description or appellation instead of his proper name, nor for omitting to state the time at which the offence was committed in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or on an impossible day or on a day that never happened, nor for want of a proper or perfect venue, nor for want of a proper or formal conclusion, nor for want of or imperfection in the addition of any defendent, nor for want of the statement of the value or price of any matter or thing, or the amount of damage, injury, or spoil in any case where the value or price or the amount of damage, injury, or spoil is not of the essence of the offence.

Formal objections to indictments shall be taken before Jury are sworn. Court may amend any formal defect.

XLI. Every objection to an indictment for uncertainty or for any formal defect apparent on the face thereof shall be taken by demurrer or motion to quash such indictment before the Jury shall be sworn, and not afterwards, and every Court before which any objection shall be taken by demurrer or motion to quash for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particulars by some Officer of the Court or other person, and thereupon the trial shall proceed as if no such defect had appeared.

No traverse allowed, but the Court may postpone trial.

XLII. No person prosecuted shall be entitled to traverse or postpone the trial of any indictment found against him at any Session of Oyer and Terminer or Session of Gaol delivery; provided always that

if the Court upon the application of the person so indicted, or otherwise, shall be of opinion that he ought to be allowed a further time either to prepare for defence or otherwise, such Court may adjourn the Sessions to any subsequent day, and may adjourn the trial of such person to such day or to the next subsequent Session, upon such terms as to bail or otherwise as to such Court shall seem meet, and may respite the recognizances of the prosecutor and witnesses accordingly, in which case the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent day or Session without entering into any fresh recognizance for that purpose.

Provision as to plea of autrefois convict or autrefois acquit.

XLIII. In any plea of Autrefois convict or Autrefois acquit, it shall be sufficient for the person accused to state that he has been lawfully convicted or acquitted (as the case may be) of the offence charged in the indictment.

Prosecution for adultery not to be instituted except by the husband.

XLIV. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

XLV. A charge of an offence under Section 498 of the Indian Penal Code shall not be instituted except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

On trial of offence under last two Sections, proof necessary of husband or person in charge of woman having instituted the charge.

XLVI. Upon the trial of an indictment for either of the offences mentioned in the last two preceding Sections, it shall be necessary to prove that the charge was instituted by the husband of the woman if the charge be made under Section 497 of the Indian Penal Code, or by the husband of the woman, or by the person having care of such woman on behalf of her husband, if the charge be made under Section 498 of the said Code, and in either case that the indictment is prosecuted by such husband or other person as the case may be, and on failure of such proof the indictment shall be quashed and the person accused shall be discharged.

Persons sentenced to rigorous confinement may be imprisoned in House of Correction.

XLVII. Whenever any person shall be sentenced by any of Her Majesty's Supreme Courts of Judicature to rigorous imprisonment, or to imprisonment with hard labor, or to solitary confinement, he shall be imprisoned in the House of Correction, whether such House of Correction be under the control of the Sheriff or not.

Persons sentenced to transportation or penal servitude may be kept in the House of Correction.

XLVIII. Whenever any person shall be sentenced by any of Her Majesty's Supreme Courts of Judicature to transportation or penal servitude, such person shall be kept in the House of Correction as the place of intermediate custody, whether such House of Correction be under the control of the Sheriff or not.

If the Sheriff be not the keeper of the House of Correction, how he shall proceed.

XLIX. If the Sheriff be not the Officer in whom the control of the House of Correction is vested, he shall cause any person sentenced as mentioned in either of the last two preceding Sections to be delivered to the Officer in whom the control of the House of Correction is vested or to the keeper of such House of Correction, together with a warrant to be signed by a Judge of the said Supreme Court, authorizing the detention of such person. Such Officer or keeper shall be bound to receive the person so delivered over to his custody, and they both shall be responsible for the safe custody of such person.

All Constables, &c., bound to assist.

L. All Constables and Police Officers are hereby empowered to aid and assist the Sheriff in carrying to the House of Correction any person sentenced as aforesaid.

Sheriff absolved from responsibility.

LI. If the Sheriff be not the Officer in whom the control of the House of Correction is vested, he shall be absolved from all responsibility in respect of the custody of any person sentenced as aforesaid from the time such person shall be delivered to the custody of the Officer in whom the control of the House of Correction is vested, or to the keeper of such House of Correction.

Person sentenced by Justice of Peace to rigorous imprisonment or hard labor may be committed to the House of Correction.

LII. Whenever any person shall be sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, or to imprisonment with hard labor, for any offence committed within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, the person so sentenced shall be committed to the custody of the Officer in whom the control of the House of Correction is vested, whether such House of Correction be under the control of the Sheriff or not, or of the keeper of such House of Correction, and such officer and keeper shall be responsible for the safe custody of such person.

Provision for persons now in the House of Correction.

LIII. From and after the passing of this Act, all persons who are confined at the date of the passing of this Act in the House of Correction, whether under the sentence of any of Her Majesty's Supreme Courts of Judicature, or of any Justice of the Peace or Police Magistrate, shall be considered to be and shall remain in the custody of the Officer in whom the control of such House of Correction is vested, whether such Officer be the Sheriff or not, or of the keeper of such House of Correction, and such Officer and keeper shall be responsible for the safe custody of all such persons.

Commencement of Act at Fort William in Bengal.

LIV. This Act shall commence and take effect in Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or in any Court to which the whole or any part of the Criminal jurisdiction of that Court shall be transferred, from the time of the passing of the Act, and shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code, which have been or shall be presented or commenced in the said Court or in any other Court to which the whole or any part of the Criminal jurisdiction of such Court shall be transferred.

Commencement of Act at Madras and Bombay.

LV. This Act shall commence and take effect in Her Majesty's Supreme Courts of Judicature at Fort St. George and Bombay

respectively, or in any Courts to which the whole or any part of the Criminal jurisdiction of those Courts respectively shall be transferred, from the time at which it shall be notified in the Official Gazette by an order of the Governor in Council of Fort St. George and Bombay respectively, that the Act is to take effect in such Courts; and from such time the provisions of the Act shall, so far as the same is applicable, extend to all indictments and proceedings in respect of any offence punishable under the Indian Penal Code which have been or shall be presented or commenced in the said Courts or in any other Courts to which the whole or any part of the Criminal jurisdiction of such Courts shall be transferred.

Act XVI of 1852 how far repealed.

LVI. From the time at which this Act shall take effect in any of Her Majesty's Supreme Courts of Judicature as provided in the last two preceding Sections, Act XVI of 1852 is repealed so far as it relates to indictments and proceedings in such Court, except as to offences not punishable under the Indian Penal Code.

Definitions.

"Indictment."

"Finding of the indictment."

Number and gender.

LVII. In the construction of this Act, unless where a contrary intention appears from the context, the word "Indictment" shall be understood to include information, inquisition, or presentment, as well as indictment, and also any plea, replication, or other pleading; and the term "finding of the indictment" shall be understood to include the taking of an inquisition, the exhibiting of an information, and the making of a presentment; and words importing the singular number or masculine gender shall include several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter and thing.

Acts done.

"British India."

Words which refer to acts done shall include illegal omissions. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22, Vic. c. 106, entitled "An

Act for the better Government of India," except the Settlement of Prince of Wales, Island, Singapore, and Malacca; and the word "property" shall be understood to include goods, chattles, money, valuable securities, and every other matter or thing, whether real or personal, upon or with respect to which any offence may be committed.

"Property."

OUDH. CONTRABAND SALT.

ACT No. XIX OF 1862.

[*Received the assent of the G. G. on the 1st May*, 1862.

Recites expediency of extending to Oudh certain provisions of Acts XIV. 1843 and XXXVI., 1855.

1. Extends to Oudh so much of Act XIV., 1843, as relates the manufacture of Alimentary Salt, and the production of illicit manufacture, &c., and Act XXXVI., 1855, from the date on which Act XXXI., 1861, was extended to Oudh.

2. Repeals Sections IV of Act XXXVI, 1855, and prescribes instead, mode of proceeding to search zenanas.

An Act to extend to the Province of Oude certain provisions of Acts XIV of 1843 and XXXVI of 1855, relating to the manufacture of contraband, Salt, and to amend the last-named Act.

Preamble.

Whereas it is expedient to extend to the Province of Oude certain provisions of Act XIV of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*) and of Act XXXVI of 1855 (*to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces*), and to amend the last-named Act; It is enacted as follows:—

Certain provisions of Act XIV of 1843 and Act XXXVI of 1855 extended to Oude.

1. So much of the said Act XIV of 1843 as relates to the manufacture of alimentary Salt, and the prevention and punishment of the illicit manufacture and inportation of such Salt, and the said Act XXXVI of 1855 as hereinafter amended

shall be held to have been and are hereby extended to the Province of Oude from the date on which Act XXXI of 1861 (*to regulate the manufacture of Saltpetre and the Sale of Salt educed in the refinement thereof*) was extended to the said Province in the manner provided in Section XVIII of the said Act.

II. Section IV of Act XXXVI of 1855 is hereby repealed, and the followng Section is enacted in lieu thereof, and shall be read and construed in the same manner as if it formed part of the said Act, namely—

Forcibly entry into zenanahs.

"If the place to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the Officer making the search shall give notice to such woman in such zenanah or apartment that she is at liberty to withdraw, and after giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of any Salt. Provided that the responsibility for the act, and the determination whether to force an entry or not shall rest with the Officer of Customs or Land Revenue only."

HIGH COURT IN BENGAL—FEES AND STAMP DUTIES.

ACT No. XX OF 1862.

[*Received the assent of the G. G. on the 19th July*, 1862.

Recites the establishment of the High Court subsequently to the passing of Act X., 1862, and doubts whether the proceedings of that Court are exempted from Stamp Duties. Also recites expediency of providing that fees and not Stamp Duty shall be paid on such proceedings in respect of business within its ordinary original jurisdiction, and Stamp Duties in its appellate jurisdiction, not being on appeal from its original ordinary jurisdiction, &c. Also recites expediency of paying officers by fixed salaries.

1. Empowers the High Court to prepare a table of fees to be paid in respect of proceedings under its ordinary and original jurisdictions, and on appeal therefrom instead of stamp duties, and to alter, &c., such fees, &c., to be sanctioned by Governor-General in Council, and published in *Calcutta Gazette*.

2. Extends Schedule B of Act X 1862, to the High Court in the exercise of its appellate jurisdiction under Section XV and of its extraordinary original jurisdiction under Sections XIII and XXIII, or as a Court of Appeal under Sections XXVI, XXVII of its Letters Patent

3. Directs that Fees received by Officers be paid to Government, &c at such times as the Court may direct, and that a quarterly account be rendered at dates specified in form, &c to be prescribed

4. This Act not to apply to the fees of Officers paid by fees, &c.

5 Suspends with the High Court, Sections CLXXXIV, CLXXV, CLXXXVI, CCCLIX of Act VIII 1859 as to the manner of deciding judgment and orders, and empowers the Court to make general rules on these subjects for its Judges

6. Empowers Court to fix by its own rules, the time for appealing from judgments, &c. of its own Judges in the exercise of their original jurisdiction.

7 Perpetuates the old procedure of judgment upon warrants of attorney and cognovits.

8. Empowers High Court Judges in the exercise of their original jurisdiction to order immediate execution for amount adjudicated and for costs afterwards when taxed.

9 Authorizes High Court to admit attornies to act as pleaders, except in the function of advocacy in Court.

10 Makes the provisions of this Act applicable to High Courts in Madras and Bombay, when established.

11—12 Act to take effect from 1st July 1862 and continue in force till 1st January 1863.

An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court.

Preamble.

Whereas the High Court of Judicature at Fort William in Bengal, constituted by Her Majesty's Letters Patent, dated the 14th day of May 1862, was established by the publication of the said Letters Patent subsequently to the date of the passing of Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), and it is doubtful whether the proceedings in the said High Court are excepted from the Stamp Duties imposed by Section XXX of the said Act X of 1862 according to the Schedule B. thereunto annexed; and whereas it is expedient as a temporary arrangement to provide that Court Fees, and not Stamp Duties, shall be paid in respect of proceedings in, and business coming

before, the said High Court in the exercise of its ordinary original jurisdiction, and on appeal from its ordinary original Civil jurisdiction, according to the practice which prevailed in the late Supreme Court of Judicature at Fort William in Bengal, and that Stamp Duties shall be levied on all Instruments and Writings specified as requiring Stamps in the Schedule B. annexed to the said Act X of 1862 which shall be filed, exhibited, or recorded in, or which shall be received or furnished by the said High Court in the exercise of its appellate jurisdiction, not being on appeal from its ordinary original Civil jurisdiction, or in the exercise of its jurisdiction as a Court of Reference and Revision in Criminal cases, in the same manner as such Stamp Duties were levied in the late Court of Sudder Dewanny and Nizamut Adawlut for the Lower Provinces of the Presidency of Fort William in Bengal; and whereas, by an arrangement made between the Government and the said Supreme Court certain Officers of that Court were remunerated for their services by fixed salaries instead of by fees, and the fees received by such Officers were paid to the account of Government, and formed into a general fund, out of which the salaries of such Officers were defrayed, and it is desirable to continue this arrangement in respect to such of the said Officers attached to the said Supreme Court who, as a temporary measure, have been appointed Officers of the said High Court, and in respect to any Officers who may hereafter be appointed to the said High Court; and whereas it is expedient to suspend the operation in the said High Court of certain Sections of Act VIII of 1859 (*the Code of Civil Procedure*) relating to the manner in which the judgments and orders of the Courts of Civil Judicature are to be recorded: It is enacted as follows:—

Court empowered to prepare Tables of Court Fees in respect of business coming before it in the exercise of its ordinary original jurisdiction, and on appeal from its ordinary original Civil jurisdiction.

I. It shall be lawful for the said High Court of Judicature to prepare and settle Tables of Fees to be received as Court Fees and to be paid to such Officer or Officers as the said High Court shall direct in respect of proceedings in or business coming before such High Court in the exercise of its ordinary original jurisdiction, and on appeal from its ordinary original Civil jurisdiction, and

no Stamp Duties shall be chargeable in respect of such proceedings or other business under Section XXX of the said Act X of 1862. The said High Court may from time to time add to or reduce or alter or amend the Tables of Fees so prepared as it may deem necessary and proper. Provided that such Tables shall not be inconsistent with the provisions of any law for the time being in force, and provided also that, before such Tables or such amended Tables are issued, they shall have received the sanction of the Governor-General in Council. The Tables of Fees so prepared and any amended Tables shall, as soon as they have received the sanction of the Governor-General in Council be published in the *Calcutta Gazette*, and from and after such publication no other fees than those sanctioned as aforesaid shall be taken by any Officer of the said High Court in respect of any Duty to which such Tables of Fees may relate.

On what sides of the High Court, Stamp Duties to be levied.

II. No Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B. annexed to the said Act X of 1862, shall be filed, exhibited, or recorded in, or shall be received or furnished by, the said High Court of Judicature in any case coming before such Court in the exercise of its appellate jurisdiction under Section 15 of the said Letters Patent, or in the exercise of its extraordinary original jurisdiction under Sections 13 and 23 of the said Letters Patent, or as a Court of Appeal, Reference, or Revision under Sections 26 and 27 of the said Letters Patent, unless such Instrument or Writing be upon a Stamp of a value not less than that indicated by the Schedule B. annexed to the said Act X of 1862, as the proper Stamp for similar Instruments and Writings in the said Sudder Court; anything in Section XXX of the said Act, to the contrary notwithstanding, but subject to the proviso therein contained.

Fees to be duly accounted for.

III. The fees received by the Officers of the said High Court, under Section I of this Act, *shall be paid to the account of Government*, and the *Officer* or Officers of the said *High Court*, whose duty it shall be, under the orders of the said High Court, to receive the same, *shall respectively cause all fees received by him* or them to be duly and regularly entered in one or more book or books to be kept

for that purpose in their Offices, distinguishing the fees under their several heads, and shall *pay over the fees so received by them* at such time and in such manner as the said High Court with the approval of the Governor-General in Council shall direct; *and such Officers shall quarterly*, within one month after the 31st day of March, the 30th day of June, the 30th day of September, and the 31st day of December in every year, *render a true and faithful account in writing to an Officer to be* appointed by the Governor-General in Council, *of* all such fees, in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers as the Governor-General in Council shall from time to time think proper to direct or require.

Act not to apply to fees allowable to the Sheriff, Attorneys, or Clerks or Officers of the Court, &c.

IV. Nothing in this Act shall be held to apply to the fees, to be allowed to the Sheriff, Attorneys, or any Clerk or Officer of the said High Court who shall be paid by fees instead of by a fixed salary, or to the fees, if any, which such Sheriff, Attorneys, or any Clerk or Officer shall be allowed to receive in addition to any fixed salary.

Parts of Act VIII of 1859 suspended.

V. The operation of the following Sections of the said Act VIII of 1859, namely, Sections 184, 185, 186, and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the said Act as extends the provisions of the foregoing Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the said High Court; and the said High Court and every Division Court and Judge thereof shall record their judgments and the orders passed by them respectively in such manner as the said High Court, shall by any general rule or rules from time to time direct.

High Court to record its judgments and orders as it shall by rule direct.

Court may fix time for preferring appeals from judgments, &c., of its own Judges or Division Courts.

VI. The High Court may by its own rules fix the time within which appeals from judgments, orders, or decrees made by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction shall be preferred.

Judgment may be signed in High Court on any Warrant of Attorney or *cognovit* on which judgment might have been signed in the Supreme Court.

VII. Judgment may be signed in the said High Court upon every Warrant of Attorney and *Cognovit actionem* upon which a judgment might have been signed in the said late Supreme Court if such Court had not been abolished, and every such judgment may be signed, enrolled, and enforced in and by the said High Court in the same manner, and in the same manner only, as it might have been in the said Supreme Court.

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

VIII. Whenever it shall appear necessary to a Judge of the said High Court that a decree made in the exercise of the ordinary original Civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs, and as to so much thereof as relates to the costs that the same may be executed as soon as the amount thereof shall be ascertained by taxation.

Court in the exercise of its ordinary original Civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil procedure to be done by a Pleader, to be done by an Attorney.

Proviso.

IX. Whenever anything is directed by the said Act VIII of 1859 to be done by or through a Pleader, the said High Court or any Judge thereof in the exercise of the ordinary original Civil jurisdiction of the said Court may authorise such act to be done by or through an Attorney at Law of the Court. Provided that no Attorney shall be authorized under the provisions of this Section to plead in the said Court or in any Division Court for any person.

Application of Act to the High Courts at Madras and Bombay.

X. This Act shall apply *mutatis mutandis* to the High Courts of Judicature which may be established at Madras and Bombay under Act 24 and 25 Victoria, Chapter 104, for those Presidencies respectively, whenever such Courts shall be established. Provided that the powers vested by this Act in the Governor-General in Council shall be exercised in the Presidencies of Madras and Bombay by the Governors in Council of those Presidencies respectively.

XI. This Act shall be deemed to have had and to have effect as if it had actually passed and received the assent of the Governor-General on the 1st day of July 1862.

Act to have effect from 1st July 1862.

XII. This Act shall continue in force until the 1st day of January 1863.

Duration of Act.

MEDICAL OFFICERS' WIDOWS' AND ORPHANS' FUND.

ACT No. XXI OF 1862.

[*Received the assent of the G. G. on the 24th Nov.*, 1862.

Recites the establishment in 1852 of the above named fund, and its failure in regard to its objects from specified causes. Enacts—

1—4. Empowers the High Court to wind up the Fund, on petition of specified parties, and to declare rights, take accounts, ascertain claims, &c.; and (2) Court may employ an accountant or actuary, and (3) by consent of parties may order a gross sum to be paid in commutation for pensions; or (4) to set apart sums to pay pensions or to arrange with Life Insurance Company for payment.

5. Empowers guardians of minors to consent on their behalf, and provides for appointment of guardians.

6. Residue of Fund not appropriated to members, &c., may be applied to the class of pensioners.

7. Empowers Court to distribute any probable surplus after providing for pensions.

8. Same mode to be employed to bring in claimants as in ordinary suits for bringing in creditors, and entails the same consequence, in default to come in in due course.

An Act to provide for the dissolution of the Subordinate Medical Officers' Widows' and Orphans' Fund, and the distribution of the funds belonging thereto.

Preamble.

Whereas, by certain Regulations prepared and adopted by certain members of the Subordinate Medical Department, a Society was established at Ferozepore, in 1852, for raising a Fund called "The Subordinate Medical Officers' Widows' and Orphans' Fund," the interest, dividends, and proceeds of which Fund were directed to be applied in making provision at certain specified rates for the widows and children of the subscribers: and it was directed that

such provision should be made solely out of the interest and dividends of the said Fund; and whereas a petition has been presented to His Excellency the Governor-General in Council by certain subscribers and members of the said Society, stating that no subscriptions have been contributed to the said Fund since the year 1857, and that in consequence thereof and of the deaths of several of the subscribers to the said Fund, no steps have been or can be taken to make the provision intended by the regulations of the said Fund, and that no pensions whatever have, since the year 1857, been paid to any of the persons entitled to the benefits of the said Fund, and that therefore the expectations of the founders of the Fund have been disappointed and the objects for which such Fund was established have failed; and praying that an Act may be passed to wind-up the affairs of the said Fund; and whereas no provision is made in the Regulations of such Fund for the dissolution thereof or the distribution of the Funds belonging thereto, and it is expedient to make provision for the same by law; It is enacted as follows:

On petition, the High Court may order the winding-up of the Fund.

I. On the petition to the High Court of Judicature at Fort William in Bengal, of a majority of the subscribers of the said Subordinate Medical Officers' Widows' and Orphans' Fund, or of any ten subscribers of the Society and pensionaries on the said Fund, praying for the dissolution of the said Society, and the winding-up of the affairs of the said Fund, it shall be lawful for the said Court to make order for the same on the said petition, as fully as if the Regulations of the said Fund, provided for the winding-up of the said Fund; and it shall be lawful for the said Court to make order for ascertaining and declaring the rights which attach on the said Fund, and for taking the accounts of the said Fund, and for the appointment, division, and distribution of the said Fund; and for the ascertainment of the nature and numbers of the different claims on the said Fund, and of the persons having or entitled to make the said claims; and for the payment of the proper costs of the subscribers of the said Society, and of all parties conducting or otherwise concerned in the matter of the said petition and subsequent proceedings for winding-up the said Fund.

II. It shall be lawful for the said Court, in such way as they may think fit, to obtain the assistance of an Accountant or Actuary the better to enable the Court to determine any matter relating to the division and distribution of the Fund, and to act upon the certificate of such person.

Accountant or Actuary may be employed.

III. In the cases of pensioners or persons entitled to become pensioners, who shall consent to commute their pensions, it shall be lawful for the said Court to order that the amounts to be paid in commutation, shall be settled, invested, or paid, in such manner as will give the several persons therein interested the full benefit thereof.

Pensions may be commuted.

IV. In the cases of pensioners or persons entitled to become pensioners, who shall refuse to commute their pensions, it shall be lawful for the said Court to order a sufficient sum to be set apart out of the said Fund to provide for the due payment of such pensions. The said Court may also sanction and give effect to any arrangement which it may deem just and sufficient for the future payment of any commuted sum or uncommuted pensions, by any Life Insurance Company willing to undertake the payment of such pensions.

Money may be invested or other arrangement made to pay pensions.

V. Guardians of minors pensioners, and of minors, if any, entitled to become pensioners on the said Fund, shall have full power and authority to consent on their behalf to commute the pensions of the minors for a fixed sum; and the said Court shall have full power and authority to give effect to such consent, and to make such order as the said Court may deem just for the application of the said commuted sum for the future benefit of the infant; and if there be no guardian, the mother, during her widowhood, may act as guardian, unless the said Court shall otherwise order; and, if necessary, the said Court may appoint a guardian for any minor.

Case of minors entitled to pensions.

VI. In dividing and distributing the said Fund, every part thereof which shall not be awarded by the said Court to members or representa-

Every part of the Fund may be applied.

tives of deceased members, may, if the said Court shall think fit, be applied for the benefit of pensioners or persons entitled to become pensioners, whether they shall consent to commute their interests or not.

Dividend may be made in anticipation.

VII. With a veiw to expedite the distribution of the surplus of the said Fund, over and above what may probably be necessary to provide for the pensions, the said Court shall have full power and authority at any time to order payment of a dividend of the said probable surplus, to the persons entitled to the same, although the exact surplus and the exact amount of charges may not then be ascertained.

Mode of bringing in claimants.

VIII. For the purpose of winding-up the said Fund, and finally closing the accounts thereof, the like proceedings shall be had for the bringing in of claimants on the said Fund, as in ordinary administration suits for bringing in creditors and other persons; and claimants being pensioners or entitled to be pensioners, who may neglect to come in, in a due course, or within the time limited for that purpose, shall be deemed to have consented to commute their pensions and a final distribution may be made of the said Fund.

EMIGRATION TO SEYCHELLES.

ACT No. XXII OF 1862.

[*Received the assent of the G. G. on the 27th Nov.*, 1862.

Recites expediency of extending Act XV. 1842 in favor of emigration to Seychelles.

1—2. Repeals Act XIV. 1839 as respects contracts for emigration to Seychelles, and (2) extends Act XV. 1842 to cooley emigration to Seychelles.

3. No emigrant to embark for Seychelles without a certificate of his being engaged, from the Government Agent countersigned by the Protector of Emigrants.

4. In case of sickness on voyage the emigrants may be taken to the Quarantine Station of Mauritius, and shall there have the option of exchanging their contract for a contract to serve at Mauritius.

5. Act to take effect from time of notification in the Calcutta Gazette that Regulations have been complied with.

An Act relating to Emigration to the British Colonial Dependency of Seychelles.

Preamble.

Whereas it is expedient to extend the provisions of Act XV of 1842 (*for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to the Island of Mauritius*) so that Native Inhabitants of British India may emigrate to the British Colonial Dependency of Seychelles; It is enacted as follows:—

Act XIV of 1839 repealed.

I. Act XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colonial Dependency of Seychelles, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colonial Dependency, is repealed.

Act XV. of 1842 extended.

II. All the provisions of the said Act XV of 1842, as modified by Act XLIX of 1860 (*relating to vessels carrying Emigrant Passengers to the British Colonies*) shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to the British Colonial Dependency of Seychelles, and the said Act XV of 1842 shall be read as if the words "or the British Colonial Dependency of Seychelles" had been inserted therein after the word "Mauritius" wherever the word "Mauritius" occurs in the said Act.

No Emigrant permitted to embark without certificate.

III. No Emigrant shall be permitted to embark for the said Dependency of Seychelles without a certificate from the Agent appointed by the Government of Mauritius and Seychelles, countersigned by the Protector of Emigrants of the Port of Calcutta, Madras, or Bombay, to the effect that such person has been engaged by him as an Emigrant to that Dependency on the part of the said Government.

In case of sickness, Emigrants may be taken to Quarantine Station of Mauritius.

IV. In case of sickness breaking out on board of any vessel conveying Emigrants to the said Dependency, such Emigrants may be taken to the Quarantine Station of the Island of Mauritius, and in such case such Emigrants may, at their option, contract for service at the said Island of Mauritius or may proceed

to the said Dependency; and if they shall elect to contract for service in the said Island of Mauritius, such Emigrants shall then be regarded and treated, in all respects, as if they had emigrated to the said Island under the said Act XV of 1842.

Commencement of Act.

V. This Act shall take effect as to the said Colonial Dependency of Seychelles from the day when the Governor-General of India in Council shall notify in the *Calcutta Gazette* that such regulations have been provided, and such measures taken as the Governor-General in Council deems necessary for the protection of such Emigrants during their residence in the said Colonial Dependency of Seychelles and in respect of their return to India.

CUSTOMS EXPORT AND IMPORT DUTIES.

ACT No. XXIII OF 1862.

[*Received the assent of the G. G. on the* 12*th Dec.*, 1862.

1. Act XVIII of Schedule A and note thereto of Act XI 1862 repealed, and new article substituted making "Free" Machinery used exclusively for purposes of agriculture, &c.
2. Establishes an *ad valorem* duty of 10 per cent. on spirits used exclusively in arts, manufactures or chemistry, if unfit for use as a beverage, &c.
3. Adds to Schedule A "Fire Wood" as Free.
4. Act to be taken as part of Act XI. 1862.

An Act to amend Act XI of 1862 (to amend the duties of Customs on goods imported and exported by sea.)

Preamble.

Whereas it is expedient to amend the law relating to Customs Duties; It is enacted as follows:—

New Article substituted for Article 18 of Schedule A.

I. Article 18 of Schedule A of the said Act XI of 1862 and the Note thereto are repealed, and instead thereof, the following words shall be read as article 18, and the Note thereto;—

ARTICLE 18.—Machinery used exclusively for purposes of agriculture, navigation, mining, or manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery..... Free.

And the Officer in charge of the Custom House, subject to the

orders of the Local Government acting under the general instructions of the Government of India, shall decide what Articles come within the definition of such machinery, or materials forming component parts thereof, and such decision shall be final in law.

Proviso after Article 23 of Schedule A.

II. The following Proviso shall be read after Article 23 of the said Schedule A:—

Provided that 10 per cent. *ad valorem* shall be charged on all Spirits used exclusively in arts and manufactures, or in Chemistry, subject to such rules as the local Government shall from time to time prescribe, for ascertaning that such Spirits are unfit for use as a beverage and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what Spirits fall within this Proviso, and his decision thereon shall be final in law.

Additional Article of Schedule A.

III. The following additional Article shall be read as part of Schedule A of the said Act.

Fire-wood..... Free.

Act to be read as part of Act XI of 1862.

IV. This Act shall be read and taken as part of the said Act XI of 1862.

HIGH COURT BENGAL—STAMP DUTIES

ACT No. XXIV OF 1862.

[*Received the assent of the G. G. on the 24th Dec.*, 1862.

1. Act XX, 1862 to continue in force till 1st January, 1864.

2. High Court may limit by rule time for applications for review of judgment by any of its own Judges.

An Act to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court.)

Preamble.

Whereas it is expedient that Act XX of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William*

in Bengal; and to suspend the operation of certain Sections of Act VIII of 1859 *in the said High Court)* should continue in force for a further period of one year from the 1st day of January 1863; It is enacted as follows:—

Act XX of 1862 continued till the 1st, of January 1864.

I. Act XX of 1862 shall continue in force until the first day of January 1864.

High Court may fix the time for applications for reviews of judgment.

II. The following words shall be read as if they had been added to Section VI of the said Act XX of 1862:—The High Court may also, by its own rules, fix the time within which applications for the review of any judgment passed by any Division Court or by any Judge or Judges of the said High Court in the exercise of its original Civil jurisdiction, shall be preferred.

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1864

CONTENTS.

TITLES OF ACTS OF 1863.

		Page.
No. 1.	An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory	1
2.	An Act to regulate the admission of Appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations	10
3.	An Act to amend the Law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca	15
4.	An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.....	19
5.	An Act to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army)	21
6.	An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India	30
7.	An Act relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix	127
8.	An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States	128

Page.

No. 9. An Act to amend the Code of Civil Procedure... 131
10. An Act to improve the Administration of Justice in the District of Darjeeling 132
11 An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process 135
12. An Act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations 140
13. An Act to empower Judges of the High Court and other Authorities at Bombay to direct Convicts to be imprisoned either in the House of Correction or the Common Jail 142
14. An Act to amend Act X of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal) 143
15. An Act to amend Act I of 1859 (for the amendment of the law relating to Merchant Seamen) 151
16. An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry 157
17. An Act to authorize the extension of the term of Office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore, and Malacca..... 160
18. An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction..... 164
19. An Act to consolidate and amend the Law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal..... 169
20. An Act to enable the Government to divest itself of the management of Religious Endowments... 188

Page

No. 21. An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Courts of Small Causes in the said Towns 197

22. An Act to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken 215

23. An Act to provide for the adjudication of claims to waste lands 238

24. An Act to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory)..... 246

25. An Act to empower Judges of the High Court and other Authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta; and to authorize the transfer of prisoners, in certain cases, from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction..... 248

26. An Act to amend Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the Duties of Customs on Goods imported or exported by Sea) 252

27. An Act to further amend Act XXXII of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of 1860 (to amend Act XXXII of 1860), and Act XVI of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the thirty-first day of July 1862, under Act XXXII of 1860, and Act XXXIX of 1860, and otherwise to modify the said Acts)... 253

28. An Act to remove doubts as to the operation of Act X of 1862 (to consolidate and amend the law relating to Stamp Duties) in the Settlement of Prince of Wales' Island, Singapore, and Malacca, between the first day of November 1862, and the first day of January 1863; and

Page.

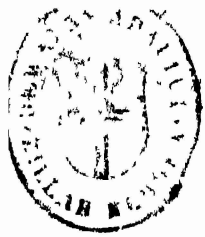
respecting the rate of exchange for payment of Stamp Duties, in the currency of India, in the said Settlement 254

No. 29. An Act to declare receipts of the Banks of Bengal, Madras, and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George, and Bombay respectively 257

30. An Act to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh..... 259

31. An Act to give effect to the publication of certain orders and other matters in the Gazette of India 263

32. An Act to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court) 264



INDEX

ABATEMENT OF RENT—(N. W. Provinces.)
Ground for, 145.

ACTS, *amended, extended, repealed.*

14 1836 (Customs Act) repealed, 39.
20 „ (Partition) repealed as respects N. W. Provinces, 171.
25 „ (Customs Act) repealed, 39.
16 1837 (Ditto) ditto, *ib.*
11 1838 (Partition) s. 19 repealed as respects N.W. Provinces, 171
5 1840 (Oaths) s. 4 repealed, 167.
6 1841 (Customs Act) repealed, 39.
13 „ (Ditto) ditto, *ib.*
19 „ (Successions) extended, 8, 207.
23 „ (Customs Act) repealed, 39
18 1843 (Prisoners) repealed, 129.
25 „ (Customs Act) repealed, 39.
6 1844 (Ditto) ss 17 to 41, and ss. 46 to 68. ditto, *ib*
14 1845 (Nazirs) repealed as respects N. W Provinces, 136.
5 1847 (Prisoners) repealed, 127.
6 1848 (Customs Act) s. 3 repealed, 39.
7 „ (Ditto) ditto, *ib.*
10 1850 (Ditto) ditto, *ib.*
1 1852 (Ditto) ditto, *ib.*
3 „ (Spirits Duty, Bombay) s. 11 limited, 100.
18 1854 (Railways) extended, 233.
29 1855 (Customs Act) s. 3, repealed, 39.
27 1856 (Municipal, Straits Settlements) s. 19 repealed, 161.
18 1858 (Successions) extended, 8.
35 „ (Lunatics) extended, 8, 207.
40 „ (Minors) extended, 207.
1 1859 (Merchant Seamen) ss. 9 to 16, limited, 152; and amended, *ib.*, and ss. 17, 21, 81, 82, repealed, 151.
7 „ (Customs Act) s. 3, repealed, 39
8 „ (Civil Procedure as to Special Appeals) amended, 150, and may be extended, *ib.*; and extended to Burmah, 9.
8 „ (Civil Procedure) s. 41 modified as respects High Court, 168.
8 „ (Ditto) ss. 243, 244, extended, 146.
8 „ (Arbitration of suits) c. 6 extended, 149.
10 „ (Rent Act, N. W. Provinces) s. 18 enlarged, 145; and s. 23 amended, *ib.*; and ss. 23, 24 enlarged, 144; and ss. 34, 86 repealed as to N. W. Provinces, 146, and new sections added, *ib*, *et seqs*; and s. 112 amended, 147.
22 „ (Customs Act) s 3, repealed, 39

ACTS, *amended, extended, repealed.*—(Continued).
10 1860 (Customs Act) ss. 3, 4, repealed, 39.
23 „ (Ditto) s. 2, ditto, *ib.*
27 „ (Successions) extended, 8, 207.
29 „ (Income Tax) amended, 253.
32 „ (Ditto) ditto, *ib.*
42 „ (Small Cause Courts) extended, 209.
48 „ (Straits Settlements, Police) s. 3 repealed, 16.
9 1861 (Minors) extended, 207.
11 „ (Successions) extended, 8.
24 „ (Presidency Banks) supplemented, 237.
28 „ (Merchant Seamen) repealed, 151.
29 „ (Articles of War) repealed, 22.
10 1862 (Stamp Duties) applied to Straits' Settlements, 256.
11 „ (Customs Duties) amended, 252.
16 „ (Income Tax) amended, 253.
18 „ (Supreme Court Jails) ss. 47 to 52 repealed, 249.
20 „ (Supreme Court Fees) continued, 265.
1 1863 (Civil Procedure, Burmah) amended, 246.
18 „ (Oaths) may be extended to Madras and Bombay, 168.

ADMIRALTY COURTS.
Jurisdiction given to, to enquire into charges against Masters, Mates &c., 154; and as to procedure in such cases, *ib.*; and their jurisdiction generally saved, 157.

AD VALOREM ARTICLES.
Valuation of, how to be fixed, 102.

ADVOCATES.
As to licensing, for Recorders' Courts, 204.
Of High Court, not to need such license, *ib.*
License, &c., may be withdrawn, 204.
Fees of, &c., to be taxable, *ib.*

AFFIDAVITS IN HIGH COURT.
How to be affirmed, 168.

AFFIRMATIONS.
Extended to High Court, Calcutta, 108.

AGENTS FOR CUSTOM HOUSE BUSINESS.
Customs Regulations respecting them, 101.

AGREEMENTS WITH MERCHANT SEAMEN.
To contain what particulars, 152, *et seq.*

AKYAB, RECORDER OF.—(*See Recorders' Courts.*)

APPEAL (British Burmah).—(*See Appeals from Non-Regulation Provinces.*)
As to right of, 5; and procedure on, *ib.*, *et seq.*

APPEALS FROM NON-REGULATION PROVINCES TO PRIVY COUNCIL.
Act to regulate admission of, 11.
As to value for which appeal will lie, 11; may be from interlocutory orders, 12; as to procedure upon, *ib.*, *et seq.*; as to execution and giving security, *ib.*

APPELLATE COURT.
May be of single judge, when, 132.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &c.
Custom-House Law respecting, 43, *et seq.*

ARBITRATORS ON PARTITION OF ESTATES.—(N. W. Provinces.)
As to appointment of, for partition of revenue paying estates, 173, *et seq.*; and as to their rates, 177; and refusal to act, *ib.*; and their remuneration, *ib.*; as to their award, 178; and procedure in case of their disagreement, 178.

ART CHEMICALS.
Act respecting the levy of excise duty on, 158.
ARTICLES OF WAR FOR NATIVE ARMY.
Act to amend, 21, *et seq.*
Articles, 3, 32, 73, 78, 82, 117, 166 repealed, 22; and others substituted for them, *ib., et seq.*
As to dismissal and discharge of soldiers, 22; discharge and recruiting by Commanding Officer, *ib.; et seq.*; as to defiling place of religious worship, 23; as to powers of Commander-in-Chief to appoint Courts Martial, *ib.*; as to death, transportation, and imprisonment, 24; as to punishment of Non-Commissioned Officers, *ib., et seq.*; as to punishment for disgraceful conduct, 25; as to powers of Officers commanding detachments, 26, *ib., et seq.*; as to taking evidence of character, 29; as to Bazar and Cantonment Police, 29, *et seq.*
ASSESSORS IN CIVIL SUITS—(British Burmah.)
May be appointed by Recorder, 208.
BAGGAGE OF PASSENGERS.
As to landing and shipping of, 42.
BANKS.—(*See Presidency Banks.*)
BILLS OF ENTRY.
Customs Regulations respecting them, 101.
BOARD OF REVENUE.—(N. W. Provinces.)
To be guided on Partitions, by local Government, 187.
BOND FOR IMPORT DUTY.
Form of, 119
BRIDGE, ROAD, RAILROAD, TRAMROAD, CANAL, &c.
To be deemed works of public utility, 219.
BRITISH BURMAH.
Act to define jurisdiction and regulate procedure of, 2, *et seq.*
Acts extended to, 8, 9; amended, 246.
As to Courts of, 2; and their names and grades, *ib.*; and their respective jurisdictions, 3; and their procedure, 4; and the right of appeal, 5; and their jurisdiction, 247.
Code of Civil Procedure extended to, 9; to be Act VIII. 1859, 247.
BURMAH.—(*See British Burmah.*)
Act to give effect to Treaty with King of, 19, *et seq.*
BYE-LAWS.
May be made for works of public utility, 234.
CALCUTTA JAIL AND HOUSE OF CORRECTION.
Act relating to prisoners in, 248, *et seq.*; recital of its crowded state, 249; and remedies in relation thereto, *ib., et seq.*; prisoners may be sentenced to either, 249; and convicts for transportation may be sent to either, 250; and prisoners may be transferred from one to another by order of Lieutenant-Governor, 251.
Customs Regulations respecting, 97.
CARGO BOATS.
CHEMICALS.—(*See Art Chemicals.*)
CHIEF COMMISSIONER.—(*British Burmah.*)
His jurisdiction and power, to hear appeals, 4; and transfer suits, *ib.*; and as to special appeals, 6; and on questions referred, *ib.*; and over pauper suits, 7.
CIVIL PROCEDURE.—(Burmah.)
Act to amend Act I, 1863, relating to, 246.
CLAIMS TO WASTE LANDS.
Act relating to, 238, *et seq.*—(*See Waste Lands.*)
May be inquired into by Collector, 239; in what manner, *ib.*; and as to report or, by Collector to Board of Revenue, 240; and as to opening decision on, by Government, *ib.*

CLAIMS TO WASTE LANDS.—(Continued.)
Special Court may be appointed for inquiring into, 241; and as to its procedure, *ib.*, *et seq.*; limitation of time as to, 244.
CODE OF CIVIL PROCEDURE.
To be the Code of Recorders' Courts in British Burmah, 205; except as otherwise provided, *ib.*
Act to amend, 131; Court of one Judge to have powers of Sudder Court of Appeal when, 132.
Extended to Burmah, 9.
In Pegu, repealed, 2.
COLLECTOR.—(N. W. Provinces.)—(*See Partition.*)
His powers in regard to partition of estates, 172, *et seq.*
COLLECTORS.—(N. W. Provinces.)
Powers of, may be conferred on local officers, 147.
COMMISSIONER.—(N. W. Provinces.)
As to powers of, on partition of estates, 183; and procedure by, 184.
COMMISSIONERS FOR WORKS OF PUBLIC UTILITY.
To be appointed, 226; for what purposes, 227.
COMMUTATION OF RENT IN KIND.—(*See Rent.*)
COMPANIES.—(*See Works of Public Utility.*)
Act to provide for works of public utility by Companies, 217, *et seq.*
COMMISSIONERS OF ENQUIRY.—(*See Oudh Commissioners.*)
CONFISCATION OF VESSEL.
To include her tackle, apparel, and furniture, 107.
CONSOLIDATED CUSTOMS ACT.
For administration of Sea Customs, 30, *et seq.*
CONVICTS IN JAIL AND HOUSE OF CORRECTION.—(*Calcutta.*)
Act relating to, 248; may be sentenced to either, 249; or transferred from one to other, *ib.*
CONVICTS OF COURTS IN NATIVE STATES.
Act for amendment of law relating to, 128, *et seq.*
CO-SHARERS OF RENT.—(N. W. Provinces.)
Suits by, to be before Collector, 146.
COSTS OF SERVICE OF PROCESS.—(N. W. Provinces.)
How to be fixed, 138, *et seq.*
COURT OF SESSION, (British Burmah.)—(*See Recorder.*)
Of Recorder, its jurisdiction, procedure, and powers, 211, *et seq.*
Not to try European British Subjects for capital offences, 212.
Sentence of Death, 5; not to be carried out without confirmation, 213.
Appeal not to lie from *ib.*; but may reserve question on points of law, *ib.*
CUSTOM HOUSE OFFICERS.
As to their powers and duties (*See Consolidated Customs Act*), 42, *et seq.*
CUSTOM HOUSE STATIONS.
May be appointed by Chief Customs Authority, 51; and for what purposes, *ib.*; Customs Officer to board ship from, 53; and ship to bring to at, 53.
CUSTOMS.
Act for administration of, 30, *et seq.*; former laws repealed, 38, *et seq.*
As to interpretation of specified words in Act, 40.
General rates relating to administration of, 42, *et seq.*
Dispute respecting, to be settled how, 42.
As to appointment of Officers of, 43; and ports, wharves, and warehouses, *ib.*
As to appointment of free ports, 44.
As to landing at unauthorized ports, *ib.*

CUSTOMS DUTIES.
As to levy and exemption from, 45, *et seq.*; as to rates of, *ib.*
Not to be levied on exports from one Indian port to another, 45.
Government may grant special exemptions from, 46.
Baggage not subject to, *ib.*
General provisions respecting, *ib.*, *et seq.*
Altered as to Iron, Wines, Beer, &c., 253.
DARJEELING.
Act to improve administration of justice in, 132, *et seq.*
DECREE-HOLDERS.—(N. W. Provinces.)—(*See Partitions.*)
When entitled to have partition made of estate, 185.
DRAWBACK.
Customs Regulations respecting, 88, *et seq.*
EMIGRATION TO ST. CROIX.—(*See St. Croix.*)
EUROPEAN BRITISH SUBJECTS.—(British Burmah.)
Not triable for capital offences by Recorder, 212; but triable in other cases, *ib.*
As to procedure for commitment of, *ib.*
EXCISE DUTY ON ART CHEMICALS.
Act to make special provision respecting, 157.
EXPORT DUITES.—(*See Rangoon.*)
EXTRA ASSISTANT, ASSISTANT COMMISSIONER, DEPUTY COMMISSIONER, AND COMMISSIONER.—(British Burmah.)
Jurisdiction of defined, 2, *et seq.*
FINES OF CUSTOM HOUSE.
Goods may be detained and port-clearance refused till payment of, 107.
FREE PORTS.
Governor-General in Council may declare port to be, 44.
GAZETTE OF INDIA.
Act relating to, 263, *et seq.*; publication in, to be of same effect as publication in Official Gazette, 264.
HER MAJESTY IN COUNCIL.
As to appeal to, from Non-Regulation Provinces, 10; and orders of, on such appeals, 14, *et seq.*
HIGH COURT FEES AND STAMP DUTIES.
Act 20, 1862, relating to, to be continued indefinitely till expiry is notified in Gazette of India, 265.
HUMEERPORE.—(Bundlekund).—(*See Mahoba and Jeitpore.*)
IMPORTATIONS.
Customs Regulations respecting, 51, *et seq.*
IMPORTS AND EXPORTS.
What prohibited, 40, *et seq.*; and as to penalty for breach of prohibition, 47.
Value of, to be declared in Custom House entry, 48; and as to consequence of undervaluation, *ib.*; and as to misdescription of, 49.
Date of, how to be ascertained, 50.
From Foreign Port, to be treated as Foreign Goods, *ib.*
IMPORT AND EXPORT DUTIES.—(*See Rangoon.*)
IMPRISONMENT.—(*See Convicts.*)
INCOME TAX.
Act relating to, amended, 253; and reduced from 3 per cent. to 2 per cent. 254.
INDIAN PENAL CODE.
Extended to offences under Act XIX. 1863, 187.
JAILS.
Convicts under sentence of any Court, acting by authority of Government, &c., may be received into, 129.

JEITPORE.—(Bundlekund)—(*See Mahoba and Jeitpore.*)
LAND REVENUE.—(N. W. Provinces.)
Act to amend laws relating to, 144, *et seq.*
Suits of Lumberdars for, shall be cognizable by Collector, *ib.*; also of co-sharers, 145; also by Maafeedars, *ib*; and by Talookdars, *ib.*
LANDS FOR WORKS OF PUBLIC UTILITY.
As to the taking, the title and payment for, 227; boundaries and measurements, 228.
As to taking for temporary purposes, 228; as to powers of Government in regard to, 229.
LANDS HELD IN COMMON.—(N. W. Provinces.)
As to partition of, 179.
LANDS HELD IN SEVERALTY—(N. W. Provinces.)
As to dealing with, on partition, 180.
LASCARS.—(*See Merchant Seamen.*)
As to stipulations in certain agreement with, 153.
LICENSE FOR PRIVATE WAREHOUSE.
Form of application for, 116.
LIMITATION OF TIME.
As to suits of Lumberdars, 145; and co-sharers, *ib.*; and Maafeedars, *ib.*; and Talookdars, *ib.*
LIMITATION OF SUITS.—(British Burmah.)
Acts relating to, extended, 9.
As to claims for waste lands, 244.
LUMBERDARS—(N. W. Provinces.)
Suits by, to be before Collector, 144.
MAAFEEDARS—(N. W. Provinces.)
Suits by, to be before Collector, 145.
MAHOBA AND JEITPORE.—(Bundlekund.).
Act to bring them under the general Regulations, 139, *et seq.*
MANIFEST.
Law respecting delivery, &c., of, 51.
MASTER AND MATES.—(*See Admiralty Courts.*)
Charges on information of Shipping Master, may be investigated how, 155; and as to powers of Courts of Inquiry, *ib.*; and as to consequences to, on result of investigation, *ib., et seq.*; to deliver up certificate, when cancelled, &c., 156.
MASTER'S OFFICE—(*High Court.*)
Act to make provision for disposal of business of, 164, *et seq.*
Investigation of Judge in future to take place of Masters, 167.
MERCHANT SEAMEN.
Act I, 1859, relating to, amended, 151; as to agreements with, 152.
MINES.
As to, near Public Works, 236.
MISCELLANEOUS PROVISIONS OF CUSTOMS ACT.
As to valuation of *ad valorem* articles, *ib.*; as to expense of assessing timber chargeable by measurement, 103; as to transhipment of stores, &c., *ib.*; as to stores for ship's own consumption, *ib.*; as to disputed questions of duty, 104; as to payment of duties short levied, *ib.*; as to refund of over-payment, *ib.*; as to incidental expenses of Custom House rules, *ib.*; as to compensation for loss, injury, &c., 105; as to wharfage fees, *ib.*; as to anchorage dues, &c., *ib.*; as to duplicates and amendment of papers, *ib.*
MOSQUES AND TEMPLES.—(*See Religious Endowments.*)
MOULMEIN, RECORDER OF.—(*See Recorder's Courts.*)

MUNICIPAL COMMISSIONERS.—(*Straits Settlements.*)
Act to extend term of office, 161; and as to rules for extension, *ib.*; how to be selected in case of equality of votes, *ib.*; appointment of, to be advertized, 163.
NATIVE RELIGIOUS ENDOWMENTS—(Bengal and Madras).—(*See Religious Endowments.*)
NATIVE STATES.—(*See Prisoners convicted in Native States.*)
NON-REGULATION PROVINCES.
Act to regulate admission of appeals from, to Privy Council, 11.
OATHS AND DECLARATION OF NATIVES.
Act relating to, extended to High Court, 167.
OFFENCES AND PENALTIES BY CUSTOMS ACT.
As to receiving and discharging goods, 106; and as to concealment of goods, *ib.*; as to cargo not on board not accounted for, *ib.*; goods may be detained for fines, 107; and persons on suspicion of offences, *ib.*; as to what shall be done with goods, &c., seized, *ib.*; and what as to persons detained, 108; as to admitting to bail, *ib.*; as to escaping, *ib.*; as to detention of persons in Queen's Navy, *ib.*; as to procedure after seizure, 109, *et seq.*; as to search warrants, 110; and search on suspicion of smuggling, *ib.*; and procedure thereon, 111; and as to searching on insufficient grounds, *ib.*; as to breaches of duty by Customs Officers, *ib.*; and as to frauds by and connivance at fraud, *ib.*; notice must be given before action against, *ib.*; and as to obstruction, *ib.*; may be tried in summary manner, 114.
ORDERS, NOTIFICATIONS, &c., OF GOVERNOR-GENERAL IN COUNCIL.
Publication of, in Gazette of India to be good publication, 264.
OUDH COMMISSIONERS OF ENQUIRY.
Act to provide for appointment of, 259; and as to their powers, 260; and subjects of enquiry, 260, *et seq.*; and their procedure, *ib.*
PARTITION OF REVENUE PAYING ESTATES—(N. W. Provinces.)
Act to amend the law relating to, 170, *et seq.*; and Acts relating to, repealed, *ib.*
How to be made, 171; among what parties, *ib.*; how to be applied for, *ib.*; and application for, to be to whom, *ib.*; and with what particulars, 172; and as to procedure upon, *ib.*; and as to notices to be given, *ib.*; and objections, 173; as to arbitration for, *ib.*; as to decision of Collector upon, *ib.*; as to powers of Appellate Court on, 174; as to jurisdiction of Civil Court on, *ib.*, 175; as to notification of, 174; and how to be carried out, *ib.*; and costs of how to be assessed, *ib.*; and how to be stayed, &c., 175; as to private agreement for, 178.
Proprietors how to be summoned on, 178; and as to bringing estate under khas management pending, *ib.*; as to arrears of revenue pending, *ib.*, *et seq.*
As to lands held in common, 179; and in severalty, 180; and as to forfeiture of right to object to, *ib.*
As to assessment of share of revenue on partition, 181; and circumstances to be considered in making, *ib.*, *et seq.*; valuation on, how to be made, 182.
Places of worship, how to be dealt with, on, 182.
As to partition paper, on, *ib.*; and maps, 183; and procedure of Collector, *ib.*
As to powers of Commissioner upon, 183; and procedure by, 184.
As to costs against unsuccessful party, 185; decree-holder may claim partition, when, *ib.*; as to orders on, and their revision, 186.

PARTITION PAPER—(N. W. Provinces.)
To contain what, 182.
PASSENGERS.—(*See Baggage, &c.*)
PAUPER SUITS.—(British Burmah.)
As to, 7, *et seq.*
PEGU.
Act 14, 1859, and 14, 1862, as to limitation of suits extended to, 9.
Civil Code of, repealed, 2.
PENALTIES, CUSTOM HOUSE.
Not to interfere with other penal liabilities of offender, 114.
How to be enforced, *ib.*; imprisonment in default of payment, how to be regulated, 115; and penalties how to be applied, 116.
PEONS FOR SERVICE OF CIVIL PROCESS.—(N. W. Provinces.)
Act to consolidate law relating to, 136; number of, to be fixed how, 137; to be appointed how, *ib.*; and Court Peons to be exclusively employed, *ib.*; to be furnished with bill, 138; and remunerated how, *ib.*; fees of, how to be disposed of, *ib.*
Act relating to, may be extended, 139.
PLACES OF WORSHIP.
On partition of estate, how to be dealt with, 182.
POLICE FORCE.—(Straits Settlements.) (*See Police Law.*)
Act to amend the Law relating to, 16, *et seq.*
As to conditions of enrolment of, 16; and penalty for desertion, 17.
POLICE LAW.—(Straits Settlements.)
As to keeping Taverns without License, 17; and as to granting licenses, *ib.*
PORTS, CUSTOMS HOUSE.
As to appointment of, 43, *et seq*; and as to free ports, 44; and as to landing, &c., at places not authorized, *ib.*
PRESIDENCY BANKS.
Act to constitute them Sub-Treasurers for Government, 257, *et seq.*
PRIVATE WAREHOUSE.—(*See License for.*)
PRISONERS.
Act relating to, in Calcutta Jail and House of Correction, 248, *et seq.*
PRISONERS CONVICTED IN NATIVE STATES.
Act for amendment of law relating to confinement of, 128.
PROCESS SERVING PEONS.—(N. W. Provinces.)
Act to amend the law relating to their employment and remuneration, 136.
PROMOTERS OF WORKS OF PUBLIC UTILITY.—(*See Works of Public Utility.*)
How to proceed, 219; and obtain survey, 220; as to prohibition of projects of, 221, *et seq*; and registration, 223; and making deposit, 224.
PUBLIC WORKS.—(*See Works of Public Utility.*)
RAILWAYS.—(*See Works of Public Utility.*)
Act 18, 1854, relating to, applied to works of public utility, 233.
As to junction of with works of public utility, 233.
RANGOON, RECORDER OF.—(*See Recorders' Courts.*)
RANGOON CUSTOMS DUTIES.
On exports to Burmah, 19; and regulations respecting, 20, *et seq.*
RECORDER OF RANGOON, AKYAB, MOULMEIN.
May be appointed, 200; to be a Barrister of five years standing, *ib.*; shall hold his Court, when, and where, *ib.*, *et seq.*; after what notification, 201; to have what local jurisdiction, *ib.*; and over what matters, 202; power as to transfer of cases, 203; and as to trial, *ib.*; to have a seal, *ib.*; and appoint officers, *ib.*
May make rules for execution of process, 205; and settle table of fees for officers, *ib.*

RECORDER OF RANGOON, AKYAB, MOULMEIN.—(Continued.)
Procedure of, to be Code of Civil Procedure, *ib.*
Law of, to be same as of High Court in its original jurisdiction, 205; save as to questions of marriage, inheritance, or succession, *ib., et seq.*
May state case for High Court, 206.
Decisions appealable when, 207, 211.
May grant new trial, *ib.*
May appoint Assessors in civil suits, 208.
As to duties of Registrar of, *ib.*
May refer suits to Registrar, 211.
To hold Criminal Sessions, 211; and have what procedure and jurisdiction, 212.
Sentence of death by, not to be carried out without confirmation, 213.
Appeal not to lie from sentence, *ib.*
REGISTRAR IN RECORDERS' COURTS—(British Burmah.)
As to his duties, 208; to examine plaints, 209; execute decrees, *ib.*; have powers of Small Cause Court Judge, when, *ib.*; and may be invested with higher powers, 209, *et seq.*
To proceed as Judge, how, 210; and decisions of not appealable, *ib.*
REGULATIONS, *amended, extended, repealed.*
Bengal.
9 1810 (Customs) repealed, 39.
9 1811 (Partitions) repealed as respects N. W. Provinces, 171.
11 " (Ditto) ditto, *ib.*
6 1814 (Customs) repealed, 39.
19 " (Partitions) repealed as respects N. W. Provinces, 171.
26 " (Procedure) s. 14 repealed as respects N. W. Provinces, 136.
7 1817 (Religious Endowments) repealed, 189.
21 " (Customs) repealed, 39.
15 1825 (Ditto) ditto, *ib.*
15 1829 (Ditto) ditto, *ib.*
3 1830 (Ditto) ditto, *ib.*
7 1832 (Procedure) s. 5, repealed as respects N. W. Provinces, 136.
6 1833 (Customs) repealed, 39.
Bombay.
9 1833 (Convicts in Native States) repealed, 129.
Regulation 22, ss. 1 to 17, and s. 28; except partially ss. 3, 7 and chap. 6, repealed, 22.
1829 Regulation 2. (Articles of War) repealed, 22.
Madras.
19 1810 (Religious Endowments) repealed, 189.
RELIGIOUS ENDOWMENTS—(Bengal and Madras.)
Act to enable the Government to divest itself of, 189.
Provison to be made, and how, for divesting the Government of all concern with, 190.
Management of, to be transferred to Trustee, &c., *ib.*; right to succession to management of, to be decided by Civil Court, 191.
New Trustees of, to have same power, &c., as their predecessors, &c., 191, *et seq.*; but not to be Members of Committee, 193; are to keep accounts, &c., 194; and be liable to be sued, *ib.*; by persons having an interest in trust, 195; but leave must first be obtained, *ib.*; and Civil Suit not to bar proceedings for Criminal Breach of Trust, 196.
Committees to fill place of Board of Revenue, to be appointed, 192; and as to qualification of members of, *ib.*; and duration of office, *ib.*; and as to filling up vacancies in, *ib.*; and Members of, not to be parties of, &c., 193.

RELIGIOUS ENDOWMENTS.—(Continued.)
Property in, to be transferred to Committee, *ib.*; suits respecting, may be referred to arbitration 195.
Charge of, not to be taken by public officer, 197.
RENT—(N. W. Provinces.)
Act to amend Act 10, 1859, so far as relates to N. W. Provinces, 144, *et seq.*; may be extended, 150.
Suits for, to be instituted within what time. 145.
And how to be instituted, 146; and execution in, how to be issued, *ib*
Abatement of, ground for, 145.
Decrees for, to be as under Code of Civil Procedure, 146
As to suits by several jointly for, 148.
Decisions respecting, liable to appeal, 148.
As to commutation of, from payment in kind to money, *ib*
REPORT OR MANIFEST.—(*See Manifest.*)
REVENUE ASSESSMENT ON PARTITIONS—(N. W. Provinces.)
How to be distributed, 181.
New one may be ordered in case of fraud, &c., 184.
REVIEW OF JUDGMENT.—(British Burmah.)
As to applications for, 8.
SALE OF WASTE LANDS.
To be postponed, pending enquiry into claims, 239.—(*See claims of Waste Lands.*)
SAMPLES, TAKING OF.
Customs regulations respecting, 102.
SETTLEMENT OFFICERS.—(N. W. Provinces.)
Matters, what, cognizable by, 147.
SMALL CAUSE COURTS—(British Burmah.)—(*See Recorders' Courts*)
SOLEMN AFFIRMATION—(*See Affirmation.*)
SPECIAL APPEAL.—(British Burmah.)
As to right of, 7; and procedure upon, *ib.*, *et seq.*
SPECIAL COURT FOR CLAIMS TO WASTE LANDS.
May be appointed, 240, *et seq.*; and as to its procedure, *ib*, *et seq.*, no appeal to lie from decision of, 243; but may refer case to High Court, *ib.*; records of, where to be deposited, *ib.*; to award compensation, and not the land, if claim established, 244.
SPIRITS.—(*See Art Chemicals.*)
SPIRITS MANUFACTURED AFTER ENGLISH METHOD.
Customs regulations respecting them, 97, *et seq.*
SPIRITS, REMOVAL OF FROM DISTILLERY.
Form of bond for, 125.
STAMP DUTIES IN STRAITS SETTLEMENTS.
Act relating to, 254, *et seq.*; to be paid at what rate of exchange, 256
STAMP DUTIES.—(British Burmah.)
To apply to suits in, 10.
ST. CROIX.—(Emigration.)
Act to render cooly emigration to, lawful, 127; as to time when Act shall take effect, 128; and certain Acts extended to, 127
STRAITS SETTLEMENTS.
Act to extend term of office of Municipal Commissioners in, 100, *et seq*; and as to stamp duties therein, 254, *et seq.*
SUB-TREASURERS OF GOVERNMENT.
Presidency Banks constituted, 257.
SUDDER COURT.
Powers of, may be exercised by single Judge, when, 132.
TALOOKDARS—(N W Provinces.)
Suits by, to be before Collector, 145.

TAVERNS AND PLACES OF PUBLIC ENTERTAINMENT.—(*Straits Settlement.*)
As to keeping, 17; and licensing, *ib., et seq.*; and as to forfeiture of license, 18.
THYET MYO AND TOUNGHOO.
Customs duties at, may be discontinued, 21.
TOUNGHOO.—(*See Thyet Myo and Toungoo.*)
TREASURERS.—(*See Sub-Treasurer of Government.*)
TREATY WITH BURMAH.
Act to give effect to, 19, *et seq.*
UNION OF SEVERED PORTIONS OF ESTATES—(N. W. Provinces). (*See Partition.*)
When it may be made, 185; and by what grounds obtained, 186.
WAREHOUSE FOR GOODS.
Form of application for, 117; and to remove goods from, 121.
WAREHOUSING.
Customs regulations respecting, 65, *et seq.*
WASTE LANDS.
Act to provide for adjudication of claims to, 239; claims to, if disputed to be inquired into, *ib.*; by what procedure, *ib.*; sale of, pending enquiry to be stayed, *ib*; decision respecting may be opened by Government, 240; special Court may be constituted for trial of claims to, 241; such Court to have exclusive cognizance, *ib.*; and to proceed as by Civil Code, 242.
WATER RATE.—(N. W. Provinces.)
May be collected, how, 149.
WHARFAGE FEES OF CUSTOM-HOUSE.
Rules respecting, 105.
WORKS OF PUBLIC UTILITY.
Act to enable private persons and companies to construct, 217, *et seq.*
What to be deemed, 219.
Promoters of, how to proceed, *ib.*; and obtain authority, 220; and their liabilities, 230.
As to obtaining land for, 225, 227; and proceeding with, 226.
Plans for, to be examined by Commissioners, 226.
As to extension of, 228.
As to expenses attending, 229.
As to the public use of, 230.
As to the construction of, 231, *et seq.*; and inspection of, *ib.*
Railway Act applicable to, 233.
As to junction of, with Railways, *ib.*
As to Bye-Laws for, 234.
As to lien of Government on, 235.
As to mines near, 236.
As to offences and penalties regarding, 238.

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CIVIL PROCEDURE, BRITISH BURMAH.

ACT No. I OF 1863.

(Received the assent of the G. G. on the 15th January 1863.)

1. Repeals existing Code of Civil Procedure in Pegu.

2. Establishes six grades of Courts, besides Recorders' Courts, Small Cause Courts, &c., *viz.:* (1) Extra Assistant of 3rd Class; (2) of 2nd Class; (3) Assistant Commissioner and Extra Assistant of 1st Class; (4) Deputy Commissioner; (5) Commissioner; (6) Chief Commissioner.

3—7. Defines jurisdiction of 3rd Class Extra Assistant; (4) of 2nd Class ditto; (5) of 1st Class ditto; (6) of Deputy Commissioner; (7 and 8) Chief Commissioner; (8) as to special appeals.

9. Every suit to be instituted in Court of lowest grade competent to try it.

10. Authorises Deputy and Chief Commissioner to take up by transfer to themselves suits from any Court subordinate to them, or to transfer them to any other Court.

11—12. Suit for land situate in more districts than one may be brought in Court competent as to the land within its jurisdiction, if authorized by Commissioner, &c.; (12) or Commissioners.

13—14. Establishes appeal from all Courts of original jurisdiction; (14) memorandum of appeal to be filed within times prescribed by Act VIII, 1859, unless further time given.

15. On appeal to Deputy Commissioner and to Commissioner, judgment below may be confirmed without summoning respondent.

16. Application for admission of second appeal under Section 7 to be preferred as under Section 14.

17. Applications for admission of special appeal may be on ground specified in Act VIII, 1859, Section 372, and to be made within what time except for special reasons, and be subject to all the conditions of like appeals to Sudder.

18—19. No special appeal to lie in any suit cognizable in Small Cause Court, if debt, &c., do not exceed 500 rupees; but (19) on regular appeal in any such case court may state any question of law or usage for decision of Chief Commissioner, &c.

20. Applications for leave to appeal in *formâ pauperis* to be made on stamp, and within same time as for appeals in other cases.

21. Review of judgment may be applied for in what cases, and within what time.

22. Extends to British Burmah Act XIX, 1841; Act XL, 1858; Act XI, 1861; and cases under them to be decided by Deputy Commissioner, subject to appeal.

23. Except as otherwise provided in this Act, civil procedure to be according to Act VIII, 1859.

24. Extends Act XIV, 1859, to Pegu from 1st May 1863, except as to claims to foreclose under any suit as to which the law of limitation at date of deed to apply.

26. Except as otherwise provided, Chief Commissioner to have same powers as Sudder Court.
26. Except as in Section 20, Stamp Duties under Act X, 1862, to apply.
27. Local jurisdiction of Deputy Commissioner to be deemed a District.
28. Act to commence 1st May 1863.

An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

Preamble.

WHEREAS it is expedient to define the limits of the jurisdiction of the Courts of Civil Judicature in British Burmah; and whereas it is also expedient that the Code of Civil Procedure should have effect throughout British Burmah subject to certain alterations and provisos, and that provision should be made for extending the operation of certain Acts to the said Territory; It is enacted as follows:—

Pegu Civil Code repealed.

I. The Code called the Civil Code of the Province of Pegu is hereby repealed.

Grades of Civil Courts in British Burmah.

II. There shall be six grades of Courts in British Burmah, which shall be in addition to any Recorders' Courts, Courts of Small Causes, or other Courts established under any Act which may be hereafter passed, namely:—

1. The Court of the Extra Assistant of the third class, or the Myooke's Court.

2. The Court of the Extra Assistant of the second class, or the Tseetkay's Court.

3. The Court of the Assistant Commissioner, and the Court of the Extra Assistant of the first class.

4. The Court of the Deputy Commissioner.

5. The Court of the Commissioner, and

6. The Court of the Chief Commissioner.

Jurisdiction of Court of Extra Assistant of 3rd class, or Myooke's Court.

III. The Court of the Extra Assistant of the third class, or the Myooke's Court, shall have power to receive, try and determine suits of every description not exceeding 500 Rupees in value or amount.

IV. The Court of the Extra Assistant of the second class, or the Tseetkay's Court, shall have power to receive, try and determine suits of every description not exceeding 3,000 Rupees in value or amount.

Jurisdiction of Court of Extra Assistant of 2nd class, or Tseetkay's Court

V. The Court of the Assistant Commissioner and the Court of the Extra Assistant of the first class shall have power to receive, try and determine suits of every description not exceeding 5,000 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner and of Court of Extra Assistant of 1st class.

VI. The Court of the Deputy Commissioner shall have power to receive, try and determine suits of every description exceeding 5,000 Rupees in value or amount, and appeals from the decisions and, where an appeal is allowed by the Code of Civil Procedure, from the orders of the Courts of the Extra Assistants of the third class, or the Myooke's Courts, of the Courts of the Extra Assistant of the second class, or the Tseetkays' Courts, and of the Courts of the Assistant Commissioners and Extra Assistants of the first class, in the District of such Deputy Commissioner.

Jurisdiction of Court of Deputy Commissioner.

VII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions, and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the Deputy Commissioners in the Division of such Commissioner. The Commissioner may also receive a second appeal from the decisions of the Courts of the Deputy Commissioners in his Division passed in regular appeal reversing or modifying the decision of the Court of original jurisdiction, on a point material to the merits of the case, if on a perusal of the grounds of appeal and of the judgments of the Courts below, copies of which judgments shall be filed with the petition of appeal, a further consideration of the case shall appear to him to be requisite for the ends of justice. The decision of the Commissioner on such second appeal, whether for

Jurisdiction of Court of Commissioner.

confirming, modifying or reversing the decision of the lower Appellate Court, shall be final, and no special appeal shall be allowed in such case to the Chief Commissioner from the decision either of the Deputy Commissioner passed in regular appeal, or of the Commissioner of the Division passed on such second appeal. The rejection of an appeal by the Commissioner on a second appeal shall have the same effect as a confirmation of the decree of the lower Court.

Jurisdiction of Court of Chief Commissioner.

VIII. The Court of the Chief Commissioner shall, except as provided in the last preceding Section, and in Section XVIII of this Act, have power to hear and determine special appeals from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Court in which suit to be instituted.

IX. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Transfer of suits.

X. It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same. And it shall be lawful for the Chief Commissioner or for the Commissioner of a Division to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner, shall be transferred to any other Courts subordinate to his authority and competent in respect of the value of the suit or appeal to try the same.

Suits for immoveable property situate in different Districts.

XI. If the suit be for land or other immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to

proceed with the same. If the suit is brought in any Court subordinate to the Court of Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in Districts subject to different Commissioners.

XII. If the Districts within the limits of which the property is situate, are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District in which the suit is brought is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit.

Appeal to lie from all decisions except when expressly prohibited.

XIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Memorandum of appeal to be presented to the Appellate Court within specified time.

XIV. The Memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure shall be presented in the Court empowered to hear the appeal, within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the Memorandum of appeal within such period, that is to say, within thirty days if the appeal lie to the Court of a Deputy Commissioner, and six weeks if the appeal lie to a Commissioner of a Division. The period shall be reckoned from and exclusive of the day on which the judgment appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeal is allowed by the Code of Civil Procedure, or by this Act, shall be presented within the same period as appeals from decisions.

XV. In cases of appeal preferred to a Deputy Commissioner under Section VI, or to a Commissioner under Section VII of this Act, it shall not be necessary to summon the Respondent in the first instance, and if upon the perusal of the judgment of the Court below of the whole or any part of the record of the original suit, and of the petition of appeal in the presence of the Appellant or of his duly constituted Agent, the Deputy Commissioner or the Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, recording his reasons for rejecting the appeal. In such case the Deputy Commissioner or the Commissioner shall cause the order for confirmation to be made known to the respondent through the Court from whose decision the appeal was made.

Deputy Commissioner and Commissioner may confirm decision of lower Court appealed from without summoning the respondent.

XVI. Applications for a second appeal under Section VII of this Act shall be preferred in the manner and within the period prescribed in Section XIV for regular appeals to the Commissioner of a Division, and if the Commissioner shall see fit to admit any such second appeal, it shall be heard and determined in every respect as an ordinary regular appeal.

Procedure as to second appeals.

XVII. Applications for the admission of a special appeal, which the Chief Commissioner is empowered by Section VIII of this Act to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days, reckoned from and exclusive of the day on which the judgment of the lower Appellate Court was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause to the satisfaction of the Chief Commissioner for not having presented the application within such period. The application shall be subject to all the conditions, whether as regards Stamp duty, remission of a portion thereof when the application is

Applications for the admission of special appeals.

made in *formâ pauperis*, or otherwise, contained in the said Code in cases of application for the admission of a special appeal to the Sudder Court.

No special appeal from decision of any Court in suits cognizable in Small Cause Courts.

XVIII. No special appeal shall lie from any decision or order which shall be passed in regular appeal by any Court after the passing of this Act, in any suit of the nature cognizable in Courts of Small Causes under Act XLII of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed the sum of five hundred Rupees.

Reference of question to the Chief Commissioner.

XIX. If in any case of regular appeal in which under the last preceding Section no special appeal is allowed, or in any case of second appeal admitted under Section VII of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court trying the appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the appeal, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Chief Commissioner. The provisions contained in Sections 29 to 34 of Act XXIII of 1861 (*to amend Act VIII of* 1859, *for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*) shall be applicable to the statement so submitted, and the Chief Commissioner shall proceed in the case under the rules contained in the said Sections for the direction of the Sudder Court so far as the same are applicable.

Applications to appeal in *formâ pauperis*.

XX. Applications to be allowed to appeal in *formâ pauperis* shall be written on stamp paper of the value of one Rupee if the appeal lie to the Court of the Deputy Commissioner, and on stamp paper of the value of two Rupees if the appeal lie to the Court of the Commissioner or to the Court of the Chief Commissioner, and shall be presented in the Court competent to receive the same within the period prescribed by this Act for the presentation of appeals from decisions, or when the application is made to

the Chief Commissioner within the period prescribed by this Act for the presentation of an application for the admission of a special appeal.

On what grounds review of judgment may be applied for.

XXI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree passed in appeal from which no second or special appeal shall have been admitted, or by a decree of the Court of the Chief Commissioner from which either no appeal shall have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit shall have been transmitted to Her Majesty in Council, and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Court which passed the decree.

Time for presentation of application for review.

Such application shall be presented within the period of ninety days from the date of the decree sought to be reviewed, unless the applicant shall show good and sufficient reason for not presenting it within such period.

Extension of certain Acts to British Burmah.

XXII. Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), and Act IX of 1861 (*to amend the law relating to Minors*), are hereby extended to British Burmah.

Trial of cases or proceedings under the above and other Acts.

All cases or proceedings arising under the said Acts or under Act XXXV of 1858 (*to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Court of Judicature*) or Act XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*),

shall be received and determined by the Deputy Commissioner of the District, subject to the provisions in the said Acts contained respectively as to jurisdiction and otherwise. All orders passed by the Deputy Commissioners in such cases or proceedings shall be open to appeal to the Commissioner of the Division, provided that no such appeal shall be allowed unless it be presented within thirty days from the date of the order appealed against, or unless the party making the appeal can show good and sufficient cause to the satisfaction of the Commissioner for not presenting the appeal within such period. The order of the Commissioner on any such appeal shall be final.

Appeal.

XXIII. Except as is in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in the Courts of Civil Judicature in British Burmah mentioned in Section II of this Act, shall be regulated by the said Code of Civil Procedure, and, except as otherwise provided by this Act or by any Law which may hereafter be passed, by no other Law or Regulation.

Procedure of Civil Courts in British Burmah to be regulated by Code of Civil Procedure.

XXIV. Act XIV of 1859 (*to provide for the limitation of suits*) as amended by Act XIV of 1862, is hereby extended to the Province of Pegu, and shall take effect therein from the date on which this Act comes into operation in British Burmah in supersession of any law of limitation in force in the said Province. Provided that all suits pending in any of the Civil Courts in the said Province upon the date upon which this Act comes into operation in British Burmah shall, so far as regards the provisions in this Section contained, be tried and determined as if this Act had not been passed. Provided also that Clause 15 of Section I of the said Act XIV of 1859 shall not apply to any claim to foreclosure arising under any deed or instrument of mortgage of immoveable property in Pegu executed before the date aforesaid, but every such claim arising under any such deed or instrument shall, so far as the law of limitation is concerned, be governed by the laws or rules of limitation now in force in that province.

Act XIV of 1859 extended to Pegu.

Powers vested in Sudder Court to be exercised by the Chief Commissioner.

XXV. Except as otherwise provided in this Act, the powers vested in the Sudder Court by the Code of Civil Procedure, shall be exercised in British Burmah by the Chief Commissioner.

Levy of Stamp Duties.

XXVI. Except as provided in Section XX of this Act, the Stamp Duties prescribed by Schedule B annexed to Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*) for Instruments and Writings in the Sudder Court and the Courts subordinate to the Sudder Court, shall be chargeable on Instruments and Writings in the Court of the Chief Commissioner and the several Courts subordinate to the Chief Commissioner.

Construction of District Court as used in Code of Civil Procedure.

XXVII. The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purpose of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

Commencement of Act.

XXVIII. This Act shall come into operation on the 1st day of May 1863.

APPEALS TO PRIVY COUNCIL FROM NON-REGULATION PROVINCES.

ACT No. II OF 1863.

(Received the assent of the G. G. on the 15th January 1863.)

1—2. Such appeal when admitted by Court below to be under same rules as like appeals from Regulation Provinces.

2—3. Empowers Court below to admit appeals to Privy Council from interlocutory orders; (3) Court to give notice to opposite party of admission of appeal.

4—5. Court may order execution on judgment appealed against, taking security, &c., or may stay execution on taking security; and (5) in either case shall require appellant to give security for costs.

6. Entitles an appellant to apply to Court for assistance in obtaining full benefit from admission of his appeal.

7—8. Court may require increased security pending an appeal, if by change of circumstances the original security is become inadequate; and (8) in case of such security not being given, the Court may make same order as if no original security were given.

9—11. Court to transmit two certified copies of the proceedings to H. M. in Council; (10) at the expense of the appellant; and (11) until deposit to cover such expenses is made, appeal not to be considered as admitted.

12—13. Either party on application may obtain authenticated copies of papers on payment of expense; also (13) of local regulation.

14—16. Judgment of Court above to be enforced by Court in which suit was brought; (15) upon petition of party interested; but (16) order for enforcement to be subject to appeal.

17. Saves from appeal order for enforcement if Court above has ordered enforcement of decree.

18. Saves power of H. M. in Council to receive or reject appeals.

19. Interprets words "British India."

An Act to regulate the admission of Appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations.

Preamble.

WHEREAS it is expedient to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations; It is enacted as follows:—

Admission of appeal.

I. If a party in a suit is desirous of preferring an appeal to Her Majesty in Council from any final judgment, decree, or order made on appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations, or from any such final judgment, decree, or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question to or respecting property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such appeal subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council in respect of such appeals from Her Majesty's High Courts of Judicature in British India.

Appeal from interlocutory judgments.

II. It shall further be lawful for such Court, at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitations, as shall be in force, or as shall from time to time be declared by Her Majesty respecting appeals from final judgments, decrees, and orders, of Her Majesty's said High Courts of Judicature.

Notice of Appeal to the other party.

III. On the admission or permission of the appeal by the Court as hereinbefore provided, the Court shall forthwith cause notice to be given to the other party, that the Appellant has preferred an appeal to Her Majesty in Council.

Court may either enforce judgment taking security, or suspend execution pending appeal.

IV. The Court, if applied to, may either order the judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may make on the appeal; or it may direct, on similar security being found, that no order for enforcing the judgment or determination shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far it has not been been executed, be suspended.

Appellant to find security for costs of appeal.

V. In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the appeal.

Time for presentation of petition of appeal.

VI. If a party who is desirous of preferring an appeal to Her Majesty in Council in any of the cases mentioned in Section I or Section II of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, or order, that has

been passed, or for any other purpose, he shall present his petition to the said Court within six calendar months from the date of the judgment, decree, or order appealed against.

If security be found inadequate, Court may require it to be increased.

VII. If at any time pending an appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the appeal is pending may, on the application of the other party, require further security.

If additional security be not furnished.

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if no such original security had been given; and if the orginal security was furnished by the Respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal, which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case.

Proceedings in the suit appealed to be forwarded to Her Majesty in Council.

IX. In every case of appeal under this Act the Court shall certify and transmit to Her Majesty in Council under the seal of the Court, two true and correct copies of all evidence, proceedings, judgments, decrees, and orders had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

Expense of copying and translating papers in appeals to be paid by Appellants.

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the appeal.

XI. The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security of costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, shall declare the appeal admitted, and give notice thereof to the Appellant and Respondent respectively.

Court to require a deposit for such expense as a preliminary to admission of appeal.

XII. Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit on paying the reasonable expenses incurred in preparing them.

Either party, on paying for the same, may obtain copy of any paper.

XIII. Either party, in like manner, may obtain an authenticated copy of any local regulation or law which he may require in the appeal.

And of any local regulation or law.

XIV. The orders or decrees of Her Majesty in Council, when duly certified, shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the suit was originally tried, in the manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

Decrees of Her Majesty in Council how to be executed.

XV. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Execution how to be obtained.

XVI. An appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules, and regulations as an appeal from an order or decree made

Appeal from order of enforcement.

upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

Court of highest Civil jurisdiction may execute decrees by order of Her Majesty in Council.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

Saving of Her Majesty's power as to receiving or rejecting appeals.

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to Her, either in rejecting any She may consider inadmissible, or in receiving any She may judge admissible.

Interpretation of "British India."

XIX. The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

POLICE FORCE AND POLICE LAW, STRAITS SETTLEMENTS.

ACT No. III OF 1863.

(Received the assent of the G. G. on the 15th January 1863.)

Recites expediency of amending the Regulations of the Police Force.

1. Repeals Act XLVIII, 1860, Section 3, but repeal not to revive Act XIII, 1856, Section 15.

2. Policemen to be engaged to serve for five years, and not to be entitled to resign within the period, &c.

3. Imposes penalty on Police for desertion, absence, &c., *viz.*, forfeiture of pay, &c.

4. Imposes penalty on persons keeping hotels, taverns and drinking shops without license; but not to apply to sale of drugs, &c.

5—6. Empowers Commissioner of Police to grant licenses for houses of public resort and entertainment; securing good behaviour; preventing drunkenness, &c.; keepers of such houses not to be licensed to supply provisions, &c., without an Abkarree license; and (6) imposes penalty on breach of conditions of license.

7. Act to be read as part of Act XIII, 1856, and to come into operation 1st March 1863.

Schedule.—Form of Declaration.

An Act to amend the Law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

WHEREAS it is expedient to amend the law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is enacted as follows:—

Section III of Act XLVIII of 1860 repealed.

I. Section III, of Act XLVIII of 1860 (*to amend Act XIII of 1856, for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), shall cease to have any effect in any of the said Stations from the time when this Act shall come into operation, provided that nothing in this Section shall be held to revive the operation of Section XV of the said Act XIII of 1856.

Members of the Police Force to sign a declaration that they will serve for a certain period

II. No person shall be enrolled a member of the Police Force in any of the said Stations, who shall not sign a declaration, in the form provided in the Schedule to this Act, that he will serve as a Member of such Force for such period, not exceeding five years, as shall be fixed by the Commissioner of Police of such Station acting under the orders of the Governor of the said Settlement; and no person who shall have signed such declaration shall be at liberty to resign his Office, or withdraw himself from the duties thereof, except with the permission of the Governor of the said Settlement, to be granted on a Certificate of ill health from a Medical Officer of Government, or on a special recommendation of such Commissioner of Police. Provided that nothing in this Section shall interfere with the power of such Commissioner of Police, under Section X of the said Act XIII of 1856, to suspend or dismiss any member of the Police Force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Penalty for deserting or withdrawing service.

III. Every Member of the Police Force in any of the said Stations, who shall have signed the declaration hereinbefore mentioned, and who shall desert or withdraw himself from such Police Force, by absenting himself from duty without reasonable excuse for a period exceeding twenty-four hours, or otherwise, shall, on conviction before a Magistrate, forfeit all arrears of pay and allowances that may be due to him at the time of such desertion or withdrawal, and be liable to a fine not exceeding six months' pay and allowances, and on failure of payment thereof to imprisonment, with or without hard labor, for a period not exceeding one month if such fine be not sooner paid; or to imprisonment, with or without hard labor, for a period not exceeding three months; or to both fine and imprisonment.

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

IV. Whoever in any of the Stations of the Straits' Settlement has, or keeps, any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police of such Station, shall be liable to a fine not exceeding twenty-five Dollars for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

V. The Commissioner of Police in each of the said Stations shall, from time to time, grant licenses to the keepers of such houses or places of public resort or entertainment as aforesaid in the said Stations respectively, and upon such conditions, to be inserted in every such license, as he,

with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same, and the said licenses may be granted by the said Commissioner for any term not exceeding one year; provided always, it shall not be lawful for the said Commissioner to grant a license to open, or establish, or keep open any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be recalled. And every holder of such license may be required by the Commissioner to fix, in a conspicuous part of the house or place specified in the license, a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one Dollar.

License to be granted only to persons who have taken out the requisite Abkaree licenses.

Fees on licenses.

VI. A breach of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding fifty Dollars, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Penalty for breach of license.

VII. This Act shall be read and taken as part of the said Act XIII of 1856, and shall come into operation on the 1st day of March 1863.

Construction of Act.

SCHEDULE.

FORM OF DECLARATION.

I,—A. B.—do hereby declare that, in consideration of my being enrolled a Member of the Police Force of I will serve in such Force for a period of years.

Witnesses. [Signed] A. B.

C. D.

E. F.

TREATY WITH BURMAH.

ACT No. IV OF 1863.

(Received the assent of the G. G. on the 29th January 1863.)

Recites 4th and 8th Articles of Treaty with King of Ava, viz., 4th stipulates that a duty of one per cent. shall be paid on goods imported for Burmese consumption, and if merely for transit through Burmese territories to be duty free; and 8th, stipulates for mutual abolition of British and Burmese duties at Thayet Myo and Tounghoo, Maloon and Tounghoo.

To give effect to the Treaty enacts—

1—2. Imposes on imports into Rangoon 1 per cent. *ad valorem*, if for export to Burmese territory; and (2) such goods to be under charge of Customs officer in course of transit.

3. Empowers G. G. in C. to order discontinuance of other duties.

4. Act to take effect from time of ratification of treaty.

An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.

Preamble.

WHEREAS a Treaty has been negotiated between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Ava, and in the 4th and 8th Articles of the said Treaty it is stipulated and agreed as follows:—

Article 4th.—"When goods are imported into Rangoon from "any British or Foreign Territory, and declared to be

"for export by the Irrawaddy river to the Burmese Territory, "the English Ruler shall, provided bulk is not broken, and he "believes the Manifest to be true, charge one per cent. on "their value, and if he so desires shall allow them to be con-"veyed under the charge of an Officer until arrival at Maloon "and Meuhla. The Tariff value of goods shall be forwarded "yearly to the Burmese Ruler. If such goods are declared "for export to other Territories and not for sale in the Burmese "Territories, the Burmese Ruler shall, if he believes the Mani-"fest to be true, not cause bulk to be broken, and such goods "shall be free of Duty.

Article 8th.—"Should the British Ruler within one year "after the conclusion of this Treaty abolish the Duties now "taken at Thayet Myo and Tounghoo, the Burmese Ruler, "with a regard to the benefit of the people of his country, "will, if so inclined, after one, two, three, or four years abolish "the Duties now taken at Maloon and Tounghoo (in the Bur-"mese Territory.)"

And whereas it is necessary to give effect to the stipulations and engagements aforesaid by an Act to regulate the Duties of Customs at the Port of Rangoon and elsewhere in conformity to such stipulations and engagements; It is enacted as follows:

Duty on goods imported into Rangoon from British or Foreign Territory limited to one per cent. *ad valorem.*

I. When any goods are imported into Rangoon from any British or Foreign Territory, whether under bond or otherwise, and declared by the importer thereof to be for export by the Irrawaddy river to the Burmese Territory for sale therein, or for export through such Territory for sale in other Territories, such goods may be entered at the Custom House at Rangoon for such export and sale, and thereupon a duty of Customs of one per cent. *ad valorem* and no more, shall be charged, provided that bulk of such goods is not broken, and the Officer in charge of the Custom House is satisfied of the truth of the entry of such goods in the Manifest of the Vessel wherein such goods are brought to Rangoon

Conveyance of goods imported as above to Maloon and Menhla.

II. Whenever any goods are entered at the Custom House at Rangoon under the last preceding Section, such goods may be conveyed to Maloon and Menhla under charge of an Officer to be appointed for the purpose, and the Officer so appointed to the charge of such goods shall be held to be a public servant within the meaning of Section 186 of the Indian Penal Code.

Governor-General may discontinue duties now taken at Thayet Myo and Tounghoo.

III. It shall be lawful for the Governor-General of India in Council, by a Notification to be published in the *Calcutta Gazette*, to order the discontinuance of the Duties or any of them now levied at Thayet Myo and Tounghoo, and subsequently, if it shall see fit, by a like Notification to order that such Duties or any of them shall be revived and re-imposed, and any order made and published under this Section shall have the force of law.

Commencement of Act.

IV. This Act shall take effect from the time when the ratifications of the said Treaty are exchanged.

ARTICLES OF WAR FOR NATIVE ARMY.

ACT No. V. OF 1863.

(Received the assent of the G. G. on the 29th January 1863.)

Recites expediency of amending Act XXIX, 1861.

1. Repeals Sections 1 to 17 and Section 27 of Bombay Reg. XXII, except Sections 3 and 7, as to small suits before bazaar superintendents, and Chapter 6 of same Reg. and Bombay Reg. 1829.

2. Repeals Articles 2, 32, 73, 78, 82, 117, 166 of Act XXIX, 1861, and substitutes new ones. Article 3 regulates dismissal and discharge; Article 32 respecting offences against religion; Article 73 respecting powers of Commander-in-Chief to appoint Courts Martial; Article 78 respecting death, transportation and imprisonment, dismissal, suspension or reduction to ranks; corporal punishment, imprisonment, or solitary confinement; punishment for disgraceful conduct; Article 82 as to powers of officers commanding detachment in punishing offences; Article 117 as to effect of trial once; Article 166 as to Regulations respecting Bazar and Cantonment Police, and punchayet.

3. Adds a paragraph to Acticle 108 of Act XXIX, 1861.

4. Act to be read as part of Act XXIX, 1863.

An Act to amend Act XXIX of 1861 (*to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army*).

Preamble.

WHEREAS it is expedient to amend certain Articles of War enacted in the said Act XXIX of 1861; It is enacted as follows:—

Sections repealed.

1. Sections I to XVII, and Section XXVIII of Regulation XXII of the Bombay Code (*to declare and define Military Authority in its relations to the Civil Power and to the Community at large*) except Sections III and VII in so far as they regulate the jurisdiction, in small suits, of the Superintendents of Bazars; Chapter VI of the same Regulation; and Regulation II of 1829 of the Bombay Code (*for establishing Rules and Articles for the better government of the Native Officers and Sepoys in the service of the United Company of Merchants of England trading to the East Indies under the Presidency of Bombay*) are hereby repealed.

Repeal of Articles 3, 32, 73, 78, 82, 117 and 166.

II. The Articles of War, numbered respectively 3, 32, 73, 78, 82, 117, and 166 in the said Act XXIX of 1861, are hereby repealed, and in lieu thereof the following Articles of War shall be read and taken as Articles 3, 32, 73, 78, 82, 117, and 166 respectively, of the said Act XXIX of 1861.

ARTICLE 3.

Dismissal and discharge.

A Non-Commissioned Officer or Soldier shall be liable to dismissal or discharge by order of the Governor-General of India in Council, or of the Governor in Council, or the Commander-in-Chief of the Presidency to which he belongs; and the said Commander-in-Chief shall have power to reduce any Non-Commissioned Officer to the ranks.

Discharge and reduction by Commanding Officer.

The Commanding Officer of a Regiment or Corps shall have power to dismiss or discharge any Soldier below the rank of a Non-Commissioned Officer, and to dismiss, discharge, or reduce to the ranks any Non-Commissioned Officer belonging to such Regiment or Corps.

Every such dismissal or discharge shall involve forfeiture of claim to pension.

Proviso as to reduction and suspension.

No Non-Commissioned Officer shall be reduced to the ranks for any stated period, nor suspended from his rank, nor reduced from a higher to a lower grade of Non-Commissioned Officer.

Certificate of discharge.

Every Non-Commissioned Officer or Soldier discharged the service shall be furnished by the Commanding Officer of the Regiment or Corps to which he belonged with a discharge Certificate in the Vernacular language of such Non-Commissioned Officer or Soldier. Such certificate shall express the authority for, and cause of, the discharge, and the period of the entire service in the Army of such Non-Commissioned Officer or Soldier, and shall be accompanied with an English translation.

ARTICLE 32.

Defiling place of religious worship.

Who shall wantonly and intentionally defile any place dedicated to religious worship, or shall wantonly and intentionally insult the religious feelings of any person.

ARTICLE 73.

Powers of the Commander-in-Chief to appoint Courts Martial.

The Commander-in-Chief of the Presidency may appoint a General or other Court Martial, and may confirm, mitigate, or commute or remit the sentence of such Court. He may issue his Warrant to any General or other Officer under his command, having the command of any body of Troops in the service of Her Majesty, empowering such Officer to appoint District or Garrison Courts Martial, as occasion may require, for the trial of any offence committed by any Officer, or Soldier, or Follower in the Service of Her Majesty, not being a European British subject of Her Majesty; and to confirm and mitigate, or commute or remit the sentence of any such Court Martial. No sentence, adjudging or involving forfeiture of additional pay or of claim to pension on discharge, or of any prospective advantage, shall be carried into effect until sanctioned

by the Commander-in-Chief of the Presidency to which the offender belongs. The Commander-in-Chief may remit any forfeiture awarded, and may order the restoration of any advantage of which the offender has been deprived by such forfeiture.

ARTICLE 78.

Death, transportation, or imprisonment.

A General Court Martial may sentence for any crime, which by these Articles is made liable to such sentence, any Officer to death or to transportation for life, or for any period not less than seven years, or in cases falling under Article 22 or Article 66, to imprisonment with or without hard labor for any period not exceeding three years, and with or without solitary confinement; or may sentence any Soldier to death, or to transportation for life, or for any period not less than seven years, or to imprisonment for any period not exceeding fourteen years, for any crimes which are by these Articles of War expressly made liable to any such sentence and for such crimes only. No Court Martial inferior to a General Court Martial shall have power to pass a sentence of death, or transportation or imprisonment for any longer period than three years.

Punishment of Commissioned Officers.

Dismissal, suspension, or reduction to ranks.

A General Court Martial may sentence a Commissioned Officer to be dismissed the service; or to be suspended from rank and pay and allowances for a stated period; or to be placed one or more steps lower in the list of his rank, by an alteration of the date of the Commission, and such Officer shall lose the corresponding benefit of length of service.

No Court Martial, inferior to a General Court Martial, shall have power to try a Commissioned Officer.

Punishment of Non-Commissioned Officers and Soldiers.

Reduction to ranks, corporal punishment, imprisonment, or solitary confinement.

A General, or District, or Garrison, or Regimental Court Martial may sentence a Non-Commissioned Officer to be reduced to the ranks; or may sentence a Non-Commissioned Officer or Soldier to be dismissed the Service; or to be placed

one or more steps lower in the list of the rank which he holds, whereby such Non-Commissioned Officer or Soldier shall lose the benefit of the corresponding length of service; or to suffer corporal punishment not exceeding fifty lashes; or to imprisonment which may be with or without hard labor, and which may include solitary confinement for any portion or portions of such imprisonment, not exceeding fourteen days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement.

No Soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more Courts Martial, or by order of the Commanding Officer of the Regiment or Corps to which such Soldier belongs.

No sentence of imprisonment shall be awardable by a General Court Martial for any period exceeding two years (except when otherwise expressly provided); nor by a District or Garrison Court Martial for any period exceeding one year; nor by a Regimental Court Martial for any period exceeding six calendar months.

No Non-Commissioned Officer shall be sentenced to imprisonment or corporal punishment without being first reduced to the ranks.

Punishment for "Disgraceful Conduct."

Forfeiture of pay or pension in addition to corporal punishment or imprisonment.

A General, or District, or Garrison Court Martial may, in addition to corporal punishment or to imprisonment, sentence a Soldier convicted of disgraceful conduct to forfeiture of all advantage as to additional pay and claim to pension on discharge, which otherwise might have accrued from the length or nature of his former service; or to forfeiture of such advantage absolutely, whether it may have accrued from past service, or might accrue from future service.

No Soldier shall be tried for disgraceful conduct by any Court Martial inferior to a District or Garrison Court Martial.

Forfeiture and stoppages in addition to dismissal.

A Court Martial may, in addition to any punishment involving dismissal or discharge, sentence any Officer or Soldier, whom it is authorized to try, to forfeiture of arrears of pay and allowances due at the time of dismissal or discharge, or of such portion thereof as may be required to make good any loss or damage arising out of his misconduct. A Court Martial, in addition to any punishment not involving dismissal or discharge, may sentence any Officer or Soldier to be put under stoppages not exceeding, in the case of an Officer two-thirds of his pay and allowances, and in the case of a Non-Commissioned Officer or Soldier one-half of his pay and allowances until any loss or damage arising out of his misconduct be made good.

Forfeiture of pay during confinement.

Every Soldier subjected to confinement in the Quarter Guard or Defaulter's Room, or in a Solitary Cell, or in any other place of imprisonment, whether as a punishment by his Commanding Officer or on a charge of which he shall be afterwards convicted by Court Martial, shall forfeit all claim to pay and allowances during such confinement, and shall be entitled to receive subsistence only according to the rates laid down in the Regulations.

Article 82.

Powers of Officers Commanding Detachments in punishing offences.

An Officer Commanding a Detachment of his own Regiment or Corps may assemble a Regimental Detachment Court Martial; and an Officer Commanding a Detachment consisting of men of different Regiments or Corps, may assemble a Detachment or Line Court Martial. Every Court so assembled shall be constituted in the manner provided for a Regimental Court Martial under the provisions of these Articles of War, and shall have the like powers.

The provisions of these Articles of War which relate to a Court Martial held in a Regiment or Corps shall, in all

practicable cases, be taken to apply to a Court Martial held in a Detachment.

No Officer on detached command of less than three Troops or Companies, or of a Detachment not numerically equal to three Troops or Companies, and not being on the line of march or on board a ship or other vessel, shall carry into effect any punishment awarded by a Court Martial held by his order, until the sentence shall have been confirmed by the Officer Commanding the Regiment or Corps to which the offender belongs, or by the nearest Superior Officer holding a command of not less than a Regiment, who is hereby authorized to confirm every such sentence in like manner as an Officer Commanding a Regiment or Corps might do. Provided that in detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and reference cannot be made to such Commanding or Superior Officer without detriment to the service, the Officer Commanding such Detachment may exercise the powers relating to Courts Martial which are vested in an Officer Commanding a Regiment or Corps.

Clause 2.

The Commanding Officer of any Detachment of not less than three Troops or Companies, or of any Detachment numerically equal to or greater than three Troops or Companies; and the Commanding Officer of any European Detachment to which native details are attached (of whatever strength or number such European Detachments, or such native details may be); and any Commissary of Ordnance, being a Commissioned Officer, or other Commissioned Officer in charge of any Arsenal, Ordnance Establishment, or any Camp Equipage Depôt, may summarily try any offence against these Articles of War, committed by any person under his command or who is subject to such Articles (not being a Commissioned Officer); and may on conviction sentence such offender and carry out such sentence without confirmation or any further authority;

provided that such sentence shall not exceed the powers of a Regimental Court Martial.

In detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and a Court Martial cannot be convened under Clause 1 of this Article without detriment to the service, and reference cannot be made without such detriment to the Officer Commanding the Regiment or Corps to which the offender belongs, or to any other Superior Officer holding a command not less than that of a Regiment, the Officer Commanding any Detachment though of less than three Troops or Companies, or not numerically equal to three Troops or Companies, may exercise the powers of summary trial, of sentencing the offender, and of carrying out such sentence, which might have been exercised by the Officer Commanding the Regiment or Corps to which the offender belongs. Provided that, if reference can be made to any other Superior Officer holding a command not less than that of a Regiment, such reference shall be made, and such Officer thereupon shall have authority summarily to try, and, in case of conviction, to sentence the offender, and to carry out such sentence as if the offender had been under his command.

Any Commanding Officer or other Officer holding a trial under this Article shall be deemed a Court Martial, and the words "Court Martial" in these Articles of War, shall be deemed to include such Commanding Officer or other Officer holding a trial.

The proceedings of such summary trial shall be conducted, so far as may be practicable, and shall be recorded in the same manner as is provided in Article 81 for summary trials by an Officer Commanding a Regiment or Corps, and shall, in like manner, be signed and forwarded to the Officer Commanding the Division within which such Detachment shall be at the time, who is hereby authorized to set aside the trial for the same reasons that an Officer Commanding a Division is authorized by Article 81 to set aside a trial by an Officer Commanding a Regiment or Corps. Provided that every sentence

so awarded by an Officer Commanding any such Detachment, or by any other Officer holding a trial under this Article, may be carried out without waiting for its approval by the Reviewing Officer.

ARTICLE 117.

No person to be tried a second time for the same offence.

No person who shall have been acquitted or convicted by a Court Martial of any offence, shall be liable to be tried a second time by the same or any other Court Martial for the same offence. Provided that any person may be tried for the offence of murder, and punished for that offence, notwithstanding he may have been tried and punished for the act which caused death, if at the time of his conviction for the said act death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

When any person subject to these Articles of War shall have been found guilty by a Court Martial of any Military offence, such Court Martial shall enquire into and receive evidence of any previous conviction of such person before a Court Martial or a Court of Justice, and shall enquire into the general character of such person, if a Soldier, for the purpose of apportioning the punishment to which he is liable to be sentenced for the offence of which he has been so found guilty. And it shall not be necessary to give any notice to such person, previously to his trial, that such evidence will be received.

ARTICLE 166.

Regulations respecting Bazar and Cantonment Police, and Punchayets, declared in force.

The Regulations by which in any Presidency the office and powers of Commissariat Officers, or Officers in charge of the Police in any Cantonments, or Superintendents of Military Bazars, are at present defined and controlled, or by which Punchayets are constituted and guided, shall continue to be in full force, and to be observed at the several Presidencies respectively.

III. The following additional Clause shall be read as the second paragraph of Article 103 of the said Act XXIX of 1861.

Every witness during attendance on a Court Martial, and during the time necessary for going and returning, shall be privileged from arrest in any Civil proceeding, and if arrested in any such proceeding, may be discharged by order of such Court Martial.

Construction.

IV. This Act shall be read and taken as part of the said Act XXIX of 1861.

CONSOLIDATED CUSTOMS ACT.

ACT No. VI. OF 1863.

(*Received the assent of the G. G. on the* 29*th January* 1863.)

Recites expediency of consolidating and amending laws relating to the administration of Sea Customs in India.

1. Act to be called the Consolidated Customs Act.

2. Repeals the Bengal Regs. IX, 1810; VI, 1814; XXI, 1817; XV, 1825; XV, 1829; III, 1830; VI, 1833; and Acts XIV and XXV, 1836; XVI, 1837; VII, 1841; XIII, 1841; XXIII, 1841; XXV, 1843; Sections 17 to 41 and 46 to 68 of Act VI, 1844; Section 3 of Act VI, 1848; VII, 1848; X, 1850; I, 1852; XXIX, 1855; VII, 1859; Section 3 of Act XXII, 1859; Sections 3 and 4, Act X, 1860; and Section 2, Act XXIII, 1860.

3. Interprets the words, British India; Local Government; Chief Customs authority of the Presidency or place; Chief Officer of Customs of the Port; Officer in charge of the Custom House; Magistrate; Free Port; Foreign Port; Foreign Goods; Vessel; Coasting Vessel; Master or Commander; Warehouse; of Number; of Gender.

GENERAL RULES.

4—5. Authorizes Chief Customs authority of any presidency, &c., to make rules for department; such rules to be published, &c.; (5) also rules respecting passengers' baggage and mails.

6. Disputes between Customs officers and parties to be adjudicated by Chief Customs officer, subject to appeal, &c.

APPOINTMENT OF OFFICERS, PORTS, &c.

7—8. Authorizes local Government to appoint, suspend, and dismiss proper officers; or (8) to delegate this power.

9. Constitutes Collector of Revenue and his subordinate Customs officers where no others appointed.

10. Authorizes Local Government to appoint ports, wharves, &c.

11—12. Authorizes the G. G. in C. to declare free ports; and (12) like power for certain purposes beyond British India.

13. Establishes penalty for shipping, &c., at any place, &c., not declared a port.

14—15. Empowers local Government to declare warehousing ports; at which (15) goods may be deposited without payment of duty on entry.

LEVY OF AND EXEMPTION FROM DUTIES.

16—20. Import duties, and (17) export duties to be levied at rates prescribed by law; but (18) neither to be levied on goods carried by sea from one port to another; and (19) Government may exempt by special order, goods under exceptional circumstances; and (20) officers may pass baggage in actual use.

GENERAL PROVISIONS.

Prohibitions.

21. Prohibits (1) pirated editions of copy-right books; (2) false and counterfeit coin; (3) obscene books, &c.

22. Prohibits importation of arms and ammunition except under license, and by sportsmen in small quantities.

23—24. Empowers G. G. in C. to prohibit by notice importation or exportation of particular goods; and (24) establishes a penalty on contravention of the prohibition, besides confiscation of the goods.

25. Legalizes importation and exportation of any goods not prohibited, and any such goods may be warehoused under rules.

26—27. Owner, importer, exporter or other party concerned to declare the value of goods imported and exported, and in case of doubtful value officer to use means of ascertaining it; and (27) undervalued goods may be detained, at valued price, for Government, &c., or owner may be allowed to amend valuation.

28. Makes goods liable to forfeiture for misdescription at Custom House.

29—30. Date of entry for home consumption at Custom House to be taken as the date of importation, when date required to be fixed; and (30) date of entry for exportation to be taken as date of exportation, when date material.

31. Country produce reimported from foreign port to be deemed foreign, unless ownership has remained unchanged.

32. Authorizes Chief Customs authority of presidency or place to appoint stations or places, for Customs officers to board or land.

IMPORTATION.

33—37. Authorizes Government to fix limits within which report or manifest must be delivered to pilot or officer; and (34) imposes penalty not exceeding 1,000 rupees for wilful omission to deliver report or manifest; and (35) if vessel remains outside the limits, the commander is to deliver report or manifest to pilot; and (36) report, &c., to be delivered to pilot, &c., within twenty-four hours after arrival at port if no limits appointed, and on default to be liable to penalty; and (37) pilot, &c., refusing to receive report to be liable to a penalty of 500 rupees.

38. Imposes penalty, 1,000 rupees, on vessel removing from place of unlading without authority of Master Attendant, &c.

39—40. Authorizes Chief Customs authority to appoint stations for officers to board vessels arriving from foreign ports; and (40) imposes penalty, 1,000 rupees, on Masters not bringing to, &c., at such stations.

41—45. Empowers Custom House officer in charge to depute officer to board any vessel on arriving, who is to remain on board day and night until otherwise ordered; and (42) imposes penalty, 500 rupees per day, on Master refusing to receive such officer on board; and (43) bound to receive with officer, officer's servant, &c., under penalty of 500 rupees, &c.; and (44) entitles such officer to have free access to every part of the ship, and to have closed receptacles opened and searched, and goods concealed shall be liable to confiscation; and (45) Masters resisting servants, or breaking officer's seal, to be liable to 1,000 rupees.

46. No vessel to break bulk till manifest has been delivered, &c., nor until order given for discharge; and such order may be refused till port clearance, &c., from the port of departure, &c., has been given up.

47. Master, &c., if required, must deliver to officer, bill of lading or copies thereof, of cargo, and answer questions respecting cargo, and in case of false bill of lading, &c., Master to be liable to penalty, 1,000 rupees.

48—50. Goods not manifested, or in excess of manifest, &c., to be reported, and liable to confiscation; and (49) if goods manifested are not on board, &c., and deficiency be not accounted for, the Master to be liable to penalty; but (50) these provisions not to prevent amendment of manifest, &c.

51—54. Allows fifteen days for landing import cargo not exceeding 600 tons, and one day more for every 50 tons above, &c.; and (52) directs what shall be done with cargo not taken by consignees; and (53) time may be enlarged by Customs officer; and (54) if goods not taken by consignee within time specified in bill of lading Master may land them at the Custom House, and Custom House shall give receipt.

55. At any time after arrival small parcels of goods may be landed by consent, &c.

56. Directs procedure for duties in case of non-payment within four months of entry of vessel.

57. Goods for home consumption, not cleared within two months after landing, to be sold for duties, and overplus paid to owner, &c.

58. Goods not to be landed on Sundays or holidays, nor out of fixed hours, except by order, &c., and baggage.

59—61. Goods carried in landing to other than appointed landing place; or (60) to other than appointed wharf, to be confiscated; and (61) with each boat load of goods a boat note specifying particulars shall be sent.

62—64. Regulates the entry of goods for home consumption; and (63) imposes penalty on goods being taken out without previous entry, except passenger's baggage; and (64) makes goods liable to confiscation if fraud on removal intended.

65—66. No claim for abatement of duty on account of damage to be allowed, unless small in value, and certified by Custom House appraiser, &c.; and (66) regulates the manner of making abatement.

67. Derelict goods brought to port to be subject to duty.

68. Customs officer may order goods brought by sea to be weighed and measured for duty.

69. Exempts from duty import cargo intended for another port and ships' stores, but such cargo and stores to be entered in export manifest.

WAREHOUSING.

70—72. Authorizes the warehousing of goods at warehousing port without payment of duty ; (71) in public warehouses under lock and key ; and (72) on terms as to rent, &c., to be fixed by Chief Customs authority.

73—75. At warehousing ports, private warehouses may be licensed for warehousing ; on (74) application in Form A in Schedule ; and (75) applications for warehousing them shall be in Form B in Schedule

76. Directs that goods before being warehoused shall be assessed for duty, and warehouse-keeper to be answerable for weight or guage of goods, &c.

77—79. On bonding imports, &c., to enter into a bond for duties ; (78) for twice the amount of the duties, with interest ; and (79) bond to extend to three years.

80—82. Imposes penalty of confiscation on goods carried into warehouse contrary to orders ; (81) regulates the manner of receiving goods into the warehouse ; and (82) imposes penalty for any mis-description of goods by which revenue might have suffered.

83. Goods when admitted to warehouses to be marked, &c., and if not marked, &c., liable to confiscation.

84—86. Warehouse-keeper liable to penalty if goods not stowed so as to admit easy access ; and (85) if he does not produce goods on requisition of officer ; and (86) goods if concealed liable to be confiscated.

87. Officer may order goods to be opened, &c., and may seal them.

88. Officer to have free access to private warehouse.

89. Seven days after demand of duty on bond, license to warehouse may be withdrawn.

90. Owners, &c., of goods to have access to them in presence of officer.

91. Clandestine opening of warehouse to be liable to penalty.

92. Owners of goods may, under rules, repack &c. goods, fill upcasks, &c., mix wines, &c., take samples, &c.

93—94. Owners, &c., not entitled to compensation for loss or damage, except incurred through wilful act or neglect of warehouse-keeper ; but (94) duties may be remitted on goods lost, &c., by unavoidable accident, &c.

95—97. Import duty to be paid according to register at time of importation, except as to ullage on wines, &c., rates of which as per table ; and (96) private warehouse-keepers to be liable to penalty for deficiency, except as to wines, &c. ; and (97) for goods in excess of registered quantity extra duty to be paid.

98—99. Prohibits removal of goods from ware-house except under Custom House pass ; (99) to be obtained on application in Form D.

100. Bonder to pay duty and be liable to penalty, 1,000 rupees, in case of removal of goods without pass, &c.

101—102. Expenses of carriage &c., to and out of ware-house to be added to duties ; and (102) goods may be sold for rent and dues in case of non-payment.

103. Full duty to be paid on goods removed from warehouse otherwise than for export.

104. Goods may be detained in bond for duty, and bond enforced on goods sold.

105—107. Authorises removal of goods from one public warehouse to another by permission; and (106) from one port to another and be re-warehoused on execution of fresh bond for duty; and (107) officers of port whence removed to transmit an account of particulars.

108. Authorizes a general bond for duties on removal from port to port.

109. Same laws and registrations to apply to goods removed as if originally imported.

110. Goods may be transhipped in one port for another port without payment of duty on entering into bond for duty at port of destination.

111. Goods from warehouse of one port, after being re-warehoused at new port, may be entered either for home consumption or exportation.

112. Goods on removal from bond to be noted on bond.

113. Directs a register of all bonds to be kept at Custom House.

114. Prohibits credit for duties beyond three years from date of warehousing.

115. This Act to apply to all warehouses of the Bengal Bonded Warehouse Association.

EXPORTATION.

116. Entry outwards must be obtained before export cargo is put on board, &c.

117. Directs the number of days, (fifteen) for shipment of outward cargo, for vessel not exceeding 600 tons &c., and after expiration of time allowed, vessel to be charged with expenses.

118. Prohibits shipment of cargo except on specified days, and times and places.

119. Goods brought for shipment must be examined by Customs officers.

120—122. Authorizes Customs House authorities to send officer on board while vessel is clearing from port; and (121) imposes penalty on Master refusing to receive officer; and (122) officer's servant,

123. Prohibits shipment, &c., of goods until delivery of bill in Form F. at Custom House.

124. Exporter to give security for landing certain goods at place for which they are entered, &c.

125—129. Export cargo to be sent on board with a boat-note signed &c.; and (126) no ship to depart without port-clearance; and (127) no pilot to take charge of ship without port-clearance; and (128) Master in applying for port-clearance to deliver manifest &c., of cargo; and (129) port-clearance may be refused until manifest &c., are delivered.

130. Goods entered in export manifest, and not duly shipped &c., liable to confiscation.

131—132. On goods shipped after application for port-clearance extra duty shall be charged; and (132) duty paid on goods afterwards released may be returned.

133—134. Chief Customs authority may appoint station for Customs officers to land from outgoing ship; and (134) imposes penalty on Masters not bringing to at such station.

135—136. Regulates transhipment of goods from vessel returning to port, &c., without having discharged cargo, and regulates duties on such goods; and (136) permits such goods to be relanded under rules.

Drawback.

137—143. Directs what amount of duty paid shall be returned as drawback on exportation, and on what conditions; and (138) where and within what time claim for drawback must be made; and (139) drawback not to be allowed on goods valued at less than drawback claimed; nor (140) upon goods not included in manifest; nor (141) on goods exported from one port to another, not being a free port; and in every case goods on which drawback is claimed must be identified as the goods on which duty was paid; and (142) person claiming drawback must make declaration respecting same; and (143) drawback goods, if not exported, &c., to be liable to confiscation.

144—147. Drawback to be allowed on all wines intended for consumption of officers of navy as per scale; on (145) conditions specified; and (146) officer's wine may be transhipped from one ship to another for same officers; and (147) such wine to be confiscated if not laden on board ship for which it is intended.

148. Provisions and stores for H. M. Navy to be passed free of duty.

Coasting Trade.

149—150. Goods merely in coasting trade not to be subject to coasting duties, but opium, salt, certain spirits, &c., not included in the exemption; and (150) drawback not to be allowed on goods in coasting vessel.

151. Authorizes local Government, under Government of India, to make regulations for coasting trade, subject to penalties.

152. Prohibits shipping or landing of goods except by written permission on Sundays or holidays, or at places other than those appointed.

153. Directs what cargo boats shall be kept by Masters of coasting vessels, and penalty for breach of rules.

154. Coasting Pass in Form G. to be made out by Master, and duplicate signed by officer, before vessel departs from port.

155. Custom House officer may refuse port clearance to vessel declared for port in India, unless bond is given, with conditions declared in this Section.

156. Authorizes officer to give a general pass for ports and intermediate ports, and to revoke same.

157. Pass to be delivered within twenty-four hours after arrival at port of discharge, under penalty.

158—159. Excisable goods not to be unladen without permission; and (159) prescribes penalty for breach of this rule.

160. Authorizes Customs officer to board coasting vessel, and examine cargo, &c.

Cargo Boats.

161—162. Authorizes the local Government to give the exclusive right to ply to registered cargo boats; (162) licenses to be issued by Custom House authority.

Spirits.

163—168. Authorizes the Customs authorities to provide rules for removal of spirits manufactured by English method, without payment of excise duty,

under bond; (164) such spirits to be taken direct from distillery to Custom House; (165) and there be guaged and proved; (166) and drawback and duty &c., regulated accordingly; and (167) drawback of excise duty to be allowed on exportation; (168) unless exported to Indian port.

169. Spirits of this kind exported from one Indian port to another to pay Customs duties at port of destination.

170. Rum shrub, cordial &c., to pay duty according to the quantity of spirit contained in it.

171. Spirits bonded for excise duty may be taken out for exportation.

172. No drawback allowed after duty paid, nor on bonded spirits unless shipped from Custom House.

173. Imposes penalty on person relanding spirits without special pass.

AGENTS.

174—175. No person to act as agent at Custom House, without Custom House authority; and (175) person acting as agent may be required to produce his authority.

DUPLICATE BILLS OF ENTRY.

176—177. Upon entry or clearance for importation or exportation, duplicate bill of entry or shipping bill to be delivered to officer; (177) under penalty, 200 rupees, on failure.

TAKING OF SAMPLES.

178. Authorizes Customs officers to take samples.

MISCELLANEOUS.

179—180. Authorizes Government to fix value of articles liable to *ad valorem* duty; and (180) directs how value to be taken, if not fixed by tariff of values.

181. Directs by whom expense of piling, &c. timber, &c., shall be borne.

182—183. Authorizes transhipment of stores from one ship to another without duty, if both belong to same owner; and (183) exempts ship's stores from duty, if going to foreign port.

184. Directs that in case of dispute respecting the amount of duty, the amount shall be deposited pending reference to the Chief Customs authority.

185. Duty short-levied by mistake to be made up, and refunded by mistake to be paid back, &c.

186. No refund to be made unless claimed within six months.

187. Incidental expense of unshipping &c. for Custom House purposes to be borne by the owner of the cargo.

188. Compensation for loss or injury to goods while detained by Custom House, not to be made, unless such loss &c. was occasioned by wilful act or neglect of officer.

189. Authorizes rates to be fixed for Custom House wharfage.

190. Saves anchorage and harbour dues, and special duties on opium, &c.

191. Regulates charge for duplicate of Custom House document.

192. Authorizes Commissioner or Collector of Customs to exempt himself or officer on public grounds from serving on jury or inquest.

OFFENCES AND PENALTIES.

193. Penalty on commanders of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.

194. Penalty for shipping, landing, concealing, &c., contrary to Act.

195. Vessels in Port with a cargo, and afterwards found in ballast, and cargo unaccounted for, liable to confiscation.

196. The confiscation of any vessel shall include her tackle, apparel, and furniture; of goods, the package and all contents thereof, and the horse, boat, &c., used in the conveyance of them.

197. Port clearance may be refused till payment of any penalty due from the person in charge, or owner of the vessel, &c.

198. Persons suspected of offence against Customs law may be detained.

199. Vessels, goods, and persons may be seized or detained.

200. Vessels and goods seized how to be dealt with.

201. Persons detained to be taken to nearest Magistrate or Officer of Custom House.

202. Persons taken before a Justice for offence under Customs Acts may be detained or admitted to bail.

203. Any person escaping may be afterwards detained.

204. Persons in Her Majesty's Navy when detained, to be secured on board until warrant procured.

205. When seizure is made, seizing officer to give reason in writing.

206. Procedure in respect of goods seized on suspicion.

207. Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

208. Magistrate of District may issue search warrant on application.

209. Persons may be searched on reasonable suspicion.

210. Persons before search may require to be taken before a Magistrate, &c.

211. Penalty for searching persons on insufficient grounds.

212. Customs officers, if guilty of breach of duty, how punishable.

213. Customs officers committing or conniving at frauds how punishable.

214. No suit or proceeding to be commenced without notice, or after stated interval.

215. Punishment for obstruction to Customs officers.

216. Penalty for making false declaration, refusing to answer questions, &c.

217. Penalty for unauthorized declaration to value of goods.

218. Officer in charge of Custom House may adjudge confiscations and penalties.

219. Local Government may confer like powers on other officers of Customs.

220. Appeal from subordinate to Chief Customs authority.

221. Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

222. Offences not specially provided for how to be adjudicated.
223. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs authority.
224. How payment of penalty to be enforced.
225. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.
226. Imprisonment to terminate upon payment of the fine.
227. Or upon payment of proportional part of fine.
228. On confiscation of vessel or goods, property to vest in Her Majesty.
229. Appropriation of penalties, &c., and grant of rewards.
230. Act to commence from 1st May 1863.

SCHEDULE OF FORMS.

A.—H. Application for license for private warehouse. B. Application to warehouse goods. C. Bond for import duty. D. Application to remove goods from warehouse; and (E.) from one warehouse to another. F. Shipping Bill. G. Coasting Pass. H. Bond for the removal of spirits from licensed distillery.

An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

Preamble.

WHEREAS it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and amended; It is enacted as follows:—

Title.

I. This Act shall be called the Consolidated Customs Act.

Laws repealed.

II. From and after the date on which this Act shall come into operation, Regulation IX. 1810 of the Bengal Code *(for rescinding the whole of the Regulations at present in force for the collection of the Government Customs in the Provinces of Bengal, Behar, Orissa, and Benares, and in the Ceded and Conquered Provinces; and for re-establishing those Customs with amended Rules for the collection of them)*, Regulation VI. 1814 of the said Code *(for modifying certain parts of Regulation IX.* 1810 *and Regulation I.* 1812*)*, Regulation XXI. 1817 of the said Code *(for modifying and explaining certain parts of Regulation IV.* 1815*)*, Regulation XV. 1825 of the said Code *(to make certain alterations in the rates of Duty charged, and Drawbacks allowed on Goods Imported or Exported by Sea at the Port of Calcutta or any other place within the Territories*

immediately subordinate to the Presidency of Fort William, and to amend and consolidate the rules in force relative to such Duties and Drawbacks), Regulation XV. 1829 of the said Code *(for altering the mode of valuing Goods Imported by Sea with a view to the assessment of Customs Duties thereon)*, Regulation III. 1830 of the said Code *(for amending part of the rules of Regulation XV. 1829, and likewise for better enforcing the payment of Duty on the Exportation of Goods by Sea)*, Regulation VI. 1833 of the said Code *(for rescinding part of Regulation XV. 1829, and for enacting other rules in the case of Goods imported by Sea)*, Acts XIV and XXV of 1836, Act XVI of 1837, Act VI of 1841 *(for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort William in Bengal)*, Act XIII of 1841 *(for explaining the provisions of Act No. XXV of 1836)*, Act XXIII of 1841 *(for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort St. George in Madras)*, Act XXV of 1843 *(for making the provisions of 5 and 6 Vic., c. 47, Section XI, applicable to India)*, Section XVII to XLI and Sections XLVI to LXVIII of Act VI of 1844 *(for abolishing the levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by Sea, and for determining the price at which Salt shall be sold for home consumption within the territories subject to the Government of Fort Saint George)*, Section III of Act VI of 1848 *(for equalizing the Duties on Goods Imported and Exported on Foreign and British Bottoms, and for abolishing Duties on Goods carried from Port to Port in the Territories subject to the Government of the East India Company)*, Act VII of 1848 *(to except certain Free Ports from the operation of Section III of Act VI of 1848 and otherwise to amend that Act)*, Act X of 1850 *(to declare Aden a Free Port)*, Act I of 1852 *(for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay)*, Act XXIX of 1855 *(for amending Act No. VI of 1844)*, Act VII of 1859 *(to alter the Duties of Customs on Goods Imported or Exported by Sea)*, Section III of Act XXII of 1859 *(to amend Act I of 1852, for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay)*,

Sections III and IV of Act X of 1860 *(to amend Act VII of 1859, to alter the Duties of Customs on Goods Imported or Exported by Sea)*, and Section II of Act XXIII of 1860 *(to amend Act XXI of 1856, to consolidate and amend the laws relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)*—are repealed; except in so far as they repeal the whole or any part of any other Regulation or Act; or relate to Duties leviable on Salt or Opium; and except as to any act done, offence committed, or liability incurred before the date on which this Act shall come into operation.

Interpretation.

III. The following words and expressions in this Act have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

"British India."

1. The words "British India" denote the Territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106 (entitled "An Act for the better government of India"), except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Local Government."

2. The words "Local Government" denote the persons authorized to administer Executive Government in any part of British India; or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall by an order of the Governor-General in Council published in the Official Gazette, be authorized to exercise the powers vested by this Act in a local Government.

"Chief Customs Authority of the Presidency or place."

3. The words "Chief Customs Authority of the Presidency or place," denote the persons authorized to exercise, under any local Government, the chief control in the Department of Customs in any Presidency or place.

"Chief Officer of Customs of the Port."

4. The words "Chief Officer of Customs of the Port" denote the Executive Officer of highest rank in the Department of Customs in any Port.

5. The words "Officer in charge of the Custom House" include every Officer of Customs who is for the time being authorized to have separate charge of a Custom House.

"Officer in charge of the Custom House."

"Magistrate."

6. The word "Magistrate" includes every Officer exercising the powers of a Magistrate.

"Free Port."

7. The words "Free Port" denote any Port at which no Duties of Customs are leviable.

"Foreign Port."

8. The words "Foreign Port" include any Port situated beyond British India, and any Free Port.

"Foreign Goods."

9. The words "Foreign Goods" include all goods not produced or manufactured in British India.

"Vessel."

10. The word "Vessel" includes any thing made for the conveyance by water of human beings or property.

"Coasting Vessel."

11. The words "Coasting Vessel" denote any Vessel plying between one Port in British India not being a Free Port, and another Port in British India not being a Free Port, without touching at any intermediate Foreign Port.

Master or Commander.

12. The words "Master or Commander" include every person, except a Pilot, having command or charge of any vessel.

"Warehouse."

13. The word "Warehouse" denotes any place approved, appointed, or licensed for the keeping and securing of goods entered to be warehoused without payment of Duty on the first entry thereof.

Number.

14. Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

15. Words importing the masculine gender include females.

GENERAL RULES.

Making, issuing, and publishing of Rules.

IV. It shall be competent to the Chief Customs Authority of any Presidency or place, with the sanction of the local Government, to make and issue rules for regulating the practice and proceedings of Officers in the Department of Sea Customs; and from time to time to add to, alter, or revoke such rules or any of them; provided that no rule so made shall be inconsistent with any provision of this Act, or of any other law for the time being in force. Any rules made under this Section shall be published in the Official Gazette.

Also rules respecting passengers' baggage and mails.

V. Any rules made under the last preceding Section may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House; and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels. When any baggage or parcels are made over to an Officer of Customs for the purpose of being landed, a fee of such amount as the local Government shall from time to time direct, shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

Appeals how and by whom to be adjudicated.

VI. If any dispute shall arise between any Officer of Customs, and any Master or Commander of a vessel, or importer, exporter, owner, or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation, or warehousing of any goods, or to the levy of any Duty or penalty thereon, or to any seizure or forfeiture thereof, the Chief Customs Authority of the Presidency or place in which such dispute shall have arisen shall settle the same, subject to an appeal to the local Government, acting under the general instructions of the Governor-General of India in Council.

APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &c.

Local Government to appoint the necessary Officers.

VII. The local Government of every Presidency or place in which Duties of Sea Customs are levied, shall appoint such persons as it may deem proper to exercise the powers conferred, and to perform the duties imposed by this Act. Every person so appointed shall be liable to be suspended or dismissed by the local Government which appointed him.

Local Government may delegate its powers to other Customs Authority. Subordinate Officers liable to be suspended or dismissed by the Authority appointing them.

VIII. The local Government may delegate to any Authority within its jurisdiction in the Department of Customs the whole or any portion of the powers vested in it by the last preceding Section. Every subordinate Officer who is appointed by virtue of such delegated power, shall be liable to be suspended or dismissed by the Authority which appointed him.

The Collector of Revenue of District to perform duties of Customs Officer where there is no separate Customs Officer.

IX. At any Port or place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the Officers subordinate to such Collector shall be deemed to be the proper Officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

Local Government may from time to time appoint Ports and Wharves for shipment and landing, and may alter, &c.

X. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, the places within such Presidency or place which alone shall be Ports for the shipment and landing of goods; and may declare the limits of such Ports; and may appoint proper places therein to be Wharves for the landing and shipping of goods; and may declare the bounds and extent of any such Wharf; and may from time to time alter the limit of any Port or Wharf; and may alter the name thereof. Every Port and Wharf which shall have been declared and appointed, or which shall be existing as such, at the date on which this Act shall come into operation, shall continue to be such

Existing Ports and Wharves to continue in use until otherwise ordered.

Port or Wharf, until the local Government shall otherwise declare by notice in the Official Gazette.

Governor-General in Council may declare Free Ports.

XI. The Governor-General of India in Council may from time to time declare, by notice in the Official Gazette, that any Port in British India shall be a Free Port at which no Duties of Customs shall be levied on the importation or exportation of goods by Sea.

Governor-General may declare that an Indian Port not in British India shall be regarded as a British Indian Port for certain purposes.

XII. The Governor-General of India in Council may, from time to time declare, by notice in the Official Gazette, that any Port on the Continent of India, though such Port be situated beyond British India, shall be regarded as a British Indian Port for the purposes of Section XVIII, of Section CXLI, and of Sections CXLIX to CLX of this Act, in so far as the said Sections or any of them are capable of being applied with respect to such Port; and may in like manner from time to time by notice in the Official Gazette revoke or suspend the operation of any such declaration. So long as any such declaration shall be in force in respect to any Port, goods exported thereto from any Port in British India, or imported therefrom at any Port in British India, shall, as regards warehousing, drawback, and all other matters for which provision is made in any part of this Act, be treated in all respects like similar goods exported from one Port in British India to another such Port, or imported at one Port in British India from another such Port.

Penalty for landing or shipping goods at unauthorized Port, &c.

XIII. If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek, or arm of the Sea for the purpose of being landed or shipped at any Port or place, which, at the date of such landing, shipment, attempt, or bringing, shall not have been declared to be or shall not be existing as a Port for the landing and shipment of goods, such goods shall be liable to confiscation, together with any ship, boat, carriage, or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

XIV. The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, that any Port or place within such Presidency or place shall be a Warehousing Port or place for the purposes of this Act; and every Port which, at the date on which this Act shall come into operation, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the local Government shall otherwise declare by notice in the Official Gazette.

Local Government may declare Warehousing Ports and places.

Existing Ports to continue in use until otherwise declared.

XV. In any Warehousing Port or place the Chief Customs Authority of the Presidency or place may from time to time approve, appoint, or license Warehouses or places of security wherein goods may be deposited without payment of Duty on the first entry thereof: and every Warehouse which, at the date on which this Act shall come into operation, shall have been approved, appointed, or licensed as such, shall continue to be a Warehouse under this Act, until otherwise ordered by such Chief Customs Authority.

Approval, appointment, and licensing of Warehouses.

Existing Warehouses to continue in use until otherwise ordered.

Levy of and Exemption from Customs Duties.

XVI. Duties of Customs shall be levied on goods imported by Sea into any Port in British India, not being a Free Port, from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Import Customs.

XVII. Duties of Customs shall be levied on goods exported by Sea from any Port in British India, not being a Free Port, to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

Export Customs.

XVIII. No Duties of Customs shall be levied on goods carried by Sea from any Port in British India, not being a Free Port, to any other Port in British India, not being a Free Port.

No Duties on goods carried from one Indian Port to another not a Free Port.

Provided that nothing in this Section shall apply to Opium or Salt, or to Spirits manufactured after the English method.

Proviso as to Opium, Salt, and Spirits.

XIX. It shall be lawful for the local Government to authorize the Chief Customs Authority of any Presidency or place, to exempt by special order, from the payment of Duty, under stated circumstances of an exceptional nature, any goods on which Duties of Customs are directed to be levied by any law for the time being in force.

Local Government may in certain cases authorize exemption from payment of Duty.

XX. It shall be lawful for the Officer in charge of a Custom House to pass free of Duty at his discretion any baggage in actual use; and for this purpose to determine, subject to such general rules as may from time to time be made under Section IV. of this Act, whether any goods shall be treated as baggage in actual use, or as goods subject to Duty.

Baggage in actual use.

GENERAL PROVISIONS.

XXI. The importation into or exportation from British India of the goods enumerated in the following Clauses is prohibited :—

Prohibitions and restrictions.

1. Any book printed in infringement of any law in force in British India on the subject of copy-right, when the proprietor of such copy-right, or his agent, shall have given to the Chief Customs Authority of the Presidency or place a notice in writing that such copy-right subsists, and a statement of the date on which it will expire.

2. False or counterfeit coin; or coin which purports to be Queen's coin of India, but is not of the established standard in weight or fineness.

3. Any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article.

XXII. The importation into British India of Arms or Ammunition, except under a license from the Governor-General of India in Council, or from some Officer authorized in that behalf by the Governor-General of India in Council, is prohi-

Importation without licenses of Arms and Ammunition, prohibited.

bited. Nothing in this Section shall apply to fowling pieces, and sporting powder, *bonâ fide* imported by any person in reasonable quantities for his own private use.

Proviso.

XXIII. It shall be lawful for the Governor-General of India in Council, from time to time by notice in the Official Gazette, to prohibit or restrict the importation or exportation of any particular class of goods.

Governor-General may prohibit or restrict importation or exportation of goods.

XXIV. If any goods, the importation or exportation of which is prohibited or restricted, or shall hereafter be prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction; or if any attempt be made so to import or export any such goods; or if any such goods be found in any package produced to any Officer of Customs as containing no such goods; or if any such goods or any goods subject to a Duty or restriction, in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any Port in British India; or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any Wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,—such goods, together with any goods which shall be found packed with or used in concealing them shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand Rupees.

Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

XXV. It shall be lawful to import into, or to export from, British India any goods, the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor-General of India in Council, for the time being in force; and any dutiable goods, the importation and warehousing of which is not prohibited or restricted by any such law or

Importation, exportation, and warehousing.

notice, may under the rules for the warehousing of goods in force at the Port of importation, be warehoused without payment of Duty on the first entry thereof

Owner, &c., to declare real value of goods in bill of entry or clearance, and if necessary, to produce invoice, &c.

XXVI. On the importation into, or exportation from, any Port in British India, of any goods not liable to Duty, or liable to fixed Duties according to weight or quantity only, or to Duties on fixed Tariff valuations, the owner, consignee, importer, exporter, or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief. In case of doubt, it shall be lawful for the Officer in charge of the Custom House to require any such person or any other person who shall be in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it shall be in his power to furnish. And it shall thereupon be the duty of such person to produce any such document or to furnish any such information so required by such Officer.

Under valued goods how to be dealt with

XXVII. If, upon the examination of any goods entered for Duty and chargeable with Duty upon the value thereof, but for which a specific value has not been fixed by the local Government, with the sanction of the Governor-General of India in Council, it shall appear to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of Duty than that to which they would be subject, according to the value thereof as stated in the bill of entry or shipping bill, it shall be lawful for such Officer to detain such goods. In every such case the detaining Officer shall forthwith give notice in writing, to the person entering the goods, of their detention, and of the value thereof as estimated by him, and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of

Government. If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which such goods were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if such goods had been transferred by ordinary sale, and shall then cause the goods to be sold by public auction after due notice in the Official Gazette. If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the Duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall at the discretion of the Chief Officer of Customs of the Port, be payable to the Officer who detected the under-valuation of the goods. Nothing in this Section shall prevent the Chief Officer of Customs of the Port, when he shall have reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, as regards valuation on payment of such increased rate of Duties, or on such other terms as he may determine. When goods are retained under this Section on account of Government, the Duties payable thereon shall in no case be levied from the person entering such goods.

Goods brought to be passed through the Custom House liable to confiscation in case of discrepancy, mis-description, &c.

XXVIII. If it be found, when any goods are entered at or brought to be passed through a Custom House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing them; or that the contents thereof have been wrongfully described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with Duty, or are being imported or exported; or that the contents of such packages have been wilfully mis-stated in regard to sort, quality or quantity; or that goods not stated in the entry or application have been fraudulently concealed in or mixed with the articles specified therein, or have been packed to

deceive the Officers of Customs, such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

Date of importation how to be determined.

XXIX. If upon the first levying, repealing, enhancement, or reduction of any Duty, or upon any change of any fixed valuation for Duty, or upon the first permitting, prohibiting, or restricting of any importation, it shall become necessary to determine the exact date on which an importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home consumption at the Custom House.

Date of exportation how to be determined.

XXX. If in like manner, it shall become necessary to determine the exact date on which an exportation of goods had effect, such date shall be deemed to be that on which the goods were actually entered outwards at the Custom House.

Re-imported articles of country produce to be deemed Foreign.

XXXI. If goods produced or manufactured in British India be imported into any Port in British India from any Foreign Port or place, such goods shall be treated as Foreign goods, and shall be liable to all the duties, conditions, and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof. Provided that if such importation shall take place within three years after the exportation of such goods, and it shall be proved to the satisfaction of the Officer in charge of the Custom House that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority of the Presidency or place shall, from time to time, direct. Goods, for which any drawback of Excise shall have been received on exportation, shall in all cases be treated as Foreign goods, unless the Chief Customs Authority of the Presidency or place shall in any case otherwise direct by special order.

Proviso.

Stations may be appointed for Customs Officers to board and also land from Ship.

XXXII. The Chief Customs Authority of any Presidency or place may, from time to time, appoint, in any Port in British India, stations or places at which vessels arriving at, or departing from, such Port, shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port, small vessels, not brought into Port by Pilots, shall be required to anchor or moor. The Chief Officer of Customs of any such Port may, at any time, station Officers of Customs on board of any vessel, while such vessel remains within the limits of the Port. Any person infringing any rule or order made under this Section by the Chief Customs Authority of any Presidency or place, or by the Chief Officer of Customs of any Port, shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for infraction.

IMPORTATION.

Places may be fixed by the local Government beyond which inward bound vessels are not to proceed until a Manifest has been delivered.

XXXIII. It shall be lawful for the local Government of any Presidency or place, by notice in the Official Gazette, to fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass, until the Master or Commander thereof shall have delivered to the Pilot, Officer of Customs, or other person duly authorized to receive the same, a Report or Manifest containing a true specification of all goods imported in such vessel, with such particulars (as to the name, nation, tonnage, cargo, and Ports of lading of such vessel) and made out in such form as shall, from time to time, be directed by the Chief Customs Authority of the Presidency or place in which such River or Port is situated.

On failure, Master to be liable to penalty.

XXXIV. If in any River or Port wherein a place has been so fixed by the local Government, the Master or Commander of any vessel arriv-

ing from a Foreign Port or place shall wilfully omit, before passing beyond such place, to deliver a Report or Manifest in the form and containing the particulars indicated in the last preceding Section, in so far as they are applicable to his ship, cargo, and voyage; or if any Report or Manifest so delivered shall not contain a true specification of all goods imported in such vessel, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for failure to report when vessel anchors below reporting Station, or to deliver a Manifest of the Cargo.

XXXV. If in any River or Port wherein a place has been fixed by the local Government under Section XXXIII of this Act, the Master or Commander of any vessel arriving from any Foreign Port or place shall remain outside or below the place so fixed, such Master or Commander shall, nevertheless, so soon as the vessel shall anchor, deliver to the Pilot, Officer of Customs, or other person authorized to receive the same, a Report or Manifest as provided in the said Section. If any Master or Commander so remaining outside or below any such fixed place, shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver his Report or Manifest, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for not delivering Report or Manifest within 24 hours after anchoring.

XXXVI. If, after any vessel arriving from any Foreign Port or place shall have entered any Port in British India at which a Custom House is established, and in which a place shall not have been fixed under Section XXXIII of this Act, the Master or Commander of such vessel shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver as required by that Section his Report or Manifest to the Pilot, Officer of Customs, or other person authorized to receive the same, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for Pilot, &c., not receiving Report or Manifest.

XXXVII. If any Pilot, Officer of Customs, or other person authorized to receive a Report or Manifest from any Master or Commander of a vessel, shall refuse so to do, he shall,

in every such case, be liable to a penalty not exceeding five hundred Rupees.

Penalty for vessel removing from place of mooring, or unlading without due authority.

XXXVIII. If any vessel arriving from any Foreign Port or place at any Port in British India, shall after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of Act XXII of 1855 *(for the regulation of Ports and Port-dues)*, directly to some other place of mooring or unlading, the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees, and the vessel shall not be allowed to enter until the penalty is paid.

Stations may be appointed for Officers of Customs to board vessels arriving from Foreign Ports.

XXXIX. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint stations at which any vessel, arriving at any Port in such Presidency or place from any Foreign Port or place, may be required to bring to for the boarding of such vessel by an Officer of Customs deputed by the Officer in charge of the Custom House at such Port.

Penalty for not bringing to at boarding Station.

XL. If the Master or Commander of any vessel arriving at any Port in British India from any Foreign Port or place shall, when so required under the last preceding Section, fail to bring to at any such station as shall have been appointed by the Chief Customs Authority of the Presidency or place for the boarding of vessels by an Officer of Customs, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Officer in charge of Custom House may depute Officers of Customs to board ships.

XLI. It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to depute at his discretion one or more Officers of Customs to board any vessel arriving at such Port. Every Officer of Customs so sent, shall remain on board of such vessel by day

and by night until it be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

Proviso.

XLII. Every Master or Commander of a vessel, who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to enter until the penalty is paid.

Penalty for refusing to receive Officer of Customs on board.

XLIII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

Servant to be received with Officer.
Accommodation of Officer and Servant.

Penalty.

XLIV. Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and shall have power to fasten down any hatchway or entrance to the hold, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board of such vessel. If any box, place, or closed receptacle in any such vessel be locked, and the keys be withheld, such Officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the Officer on board, or to any other Officer under his authority, a written order to search; and, on production of such order, it shall

Officers of Customs to have free access to every part of the ship, and may seal and secure goods.

Officer in charge of Custom House may authorise search and opening of locks.

be competent to the Officer bearing the same to require that any place, box, or closed receptable in such vessel be opened in his presence; and, if it be not opened upon his requisition, to break the same open; and any goods that shall be found concealed therein, and that shall not be duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

Goods found concealed liable to confiscation.

XLV. If any Master or Commander of a vessel shall refuse to allow such vessel or any box, place, or closed receptacle in such vessel to be searched when so required by an Officer of Customs bearing a written order to search; or if an Officer of Customs shall place any lock, mark, or seal upon any goods, and such lock, mark, or seal shall be wilfully opened, altered, or broken, before due delivery of such goods; or if any such goods shall be secretly conveyed away; or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, shall be opened without his permission, in every such case the Master or Commander of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand Rupees.

Penalty for Masters resisting search, &c.

XLVI. No vessel arriving in any Port in British India from any Foreign Port or place, shall be allowed to break bulk until a Report or Manifest shall have been delivered as hereinbefore provided; nor until a copy of such Report or Manifest, together with an application for entry inwards, shall have been presented to the Officer in charge of the Custom House, and order shall have been given thereon by such Officer for the discharge of the cargo. The Officer in charge of the Custom House may refuse to give such order, until any Port-clearance, cockett, or other paper, which he shall know or have reason to believe, had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him. Nothing in this Section shall prevent an Officer in charge of a Custom House from granting, on receipt of the

Bulk not to be broken until Manifest &c., delivered, and ship entered at Custom House.

original Report or Manifest, and prior to the entry of the vessel at the Custom House, a special pass, under such rules as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, for the unshipping of Bullion or Treasure.

Master if required, to deliver Bill of Lading, &c., to Officer in charge of Custom House.

XLVII. The Master or Commander of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Port in British India, deliver to the Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as shall be put to him by such Officer. If any such bill of lading or copy thereof shall be false; or if any such bill of lading or copy shall have been altered with fraudulent intent; or if the goods expressed in any such bill of lading or in any bill of lading of which a copy shall be so produced shall not have been *bonâ fide* shipped on board of such vessel; or if any such bill of lading so produced, or any bill of lading of which a copy shall be so produced by any such Master or Commander, shall not have been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped; or if any part of the cargo shall have been staved, destroyed, or thrown overboard, or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House; in every such case the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees.

Penalty for false entry, fraudulent alteration, &c.

Goods not to leave ship unless entered in Manifest. Goods not agreeing in description and quantity with entry in Manifest liable to confiscation, or extra Duty.

XLVIII. No goods shall be allowed to leave any vessel, unless they be duly entered in the Report or Manifest of such vessel. If any goods be found on board in excess of those entered in the Report or Manifest, or not corresponding with the specification therein

in contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of Duty as the Chief Customs Authority of the Presidency or place shall direct.

Penalty for not being able to account for missing or deficient package, &c.

XLIX. If any goods entered in the Report or Manifest shall not be found on board of the vessel, or if the quantity found be short, and if such deficiency be not accounted for to the satisfaction of the Officer in charge of the Custom House, the Master or Commander of such vessel shall be liable, in addition to full Duty to a penalty not exceeding twice the amount of Duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith; or if they be not, to a penalty not exceeding five hundred Rupees for every missing or deficient package of unknown value.

Amendment of obvious errors, &c.

L. Nothing contained in the two Sections last preceding shall be construed to prevent any Officer in charge of a Custom House from permitting the Master or Commander of any vessel to amend any obvious error, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary Report or Manifest. But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; who, if he decide to receive any such amended or supplementary Report or Manifest, may levy thereon such fee as the Chief Customs Authority of the Presidency or place shall from time to time direct.

Period to be allowed for landing import Cargo.

LI. A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs) for the landing of import cargo from such vessel. One additional day shall in like manner be allowed for every fifty

tons in excess of six hundred. If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period.

Consequence of exceeding same.

LII. If the importer, owner, or consignee of any goods (except such as shall have been declared by the Master or Commander as not to be landed), or the agent of such importer, owner, or consignee, shall not land such goods within fifteen working days after the entry of the vessel importing the same, or within such further period as the bill of lading of such vessel shall specify, the Master or Commander of the vessel, or the Officers of Customs, on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of, and to grant receipts for such goods; and, if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, duties, and other charges to which such goods are liable, shall be paid.

Procedure in respect of goods not landed within time allowed.

LIII. If the cargo of any vessel, with the exception of a small quantity only of goods, shall have been landed within such period of fifteen days or such further period as the bill of lading shall specify, the Officers of Customs may, on the application of the Master or Commander of such vessel, direct that such remaining goods shall forthwith be carried in like manner to the Custom House.

And in case of goods being landed in time, with exception of only a small quantity.

LIV. If any earlier period than fifteen working days after the entry of any vessel is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner, or consignee of such

Effect of not discharging Cargo in any earlier period specified in the bill of lading.

cargo, or the agent of such importer, owner, or consignee, shall not land the same within such specified period, the Master or Commander of such vessel, or the Officers of Customs, on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of and to grant receipts for such goods; and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, duties, and other charges to which such goods are liable, shall be paid.

Goods may be landed at any time after arrival, with consent.

LV. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master or Commander of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel. If any package or parcel so carried to the Custom House shall remain unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master or Commander may give such notice as is provided in Section LII of this Act, and the Officer in charge of the Custom House shall thereupon be bound to hold such package or parcel as provided in the said Section.

Procedure in case of non-payment of Duties within four months after entry of vessel.

LVI. If the Duties chargeable upon any goods carried to the Custom House under the provisions of any of the four Sections last preceding, together with the freight, primage, charges of landing and removal, rent and other charges, to which such goods shall be liable, shall not be paid within four months from the date of entry of the vessel, or if such goods shall not be duly warehoused within such period,

such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied; first, to the payment of freight, primage, and general average; next, to the payment of Duties; and then to the payment of other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made. If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner. Nothing in this Section shall be held to authorize the passing for home consumption of any dutiable goods without payment of Duties of Customs thereon.

Goods not cleared within two months from the date of landing to be sold.

LVII. If any goods be not cleared for home consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House shall direct, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of Duties and other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent on his application for the same; provided that such application be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

Disposal of proceeds.

Goods not to be landed on Sundays, Holidays, &c., without permission; nor except within fixed hours, &c.

LVIII. Except with the written permission of the Officer in charge of the Custom House no goods, with the exception of passenger's baggage, shall on any Sunday, or on any Holiday or day on which the discharge of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Port in British India from any Foreign Port or place; nor, except

with such written permission, shall any goods be so discharged on any day, except between such hours as the Chief Customs Authority shall, from time to time, appoint by notice in the Official Gazette; nor without the presence or authority of an Officer of Customs. Any Master or Commander of a vessel who shall cause or suffer any goods to be removed contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding one thousand Rupees; and all goods so unauthorizedly removed shall be liable to confiscation.

Penalty.

LIX. If any goods shall be removed from on board of any vessel for the purpose of being landed and passed for importation, such goods shall be forthwith removed to and landed at the Wharf or other place appointed for the landing of such goods. If such goods be not so removed, or landed, or if the boat containing such goods be found out of the proper track between the vessel and such Wharf or other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House, such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation.

Goods removed from ship to be forthwith landed. Otherwise liable to confiscation.

LX. No goods which shall have been discharged from any vessel under the authority of an Officer of Customs shall be landed, except at the Wharf or other place appointed for the landing of such goods. No goods which shall have been discharged into any boat for the purpose of being landed shall, previously to their being landed, be trans-shipped into any other boat without the permission of an Officer of Customs. Any goods landed or trans-shipped contrary to the provisions of this Section shall be liable to confiscation.

Goods landed at any other than appointed Wharf or place liable to confiscation.

LXI. When any goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat-load, or other separate

Goods landed without a boat-note, liable to confiscation, and person in fault, to penalty.

despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof. Each boat-note shall be signed by an Officer of the vessel, and likewise by the Officer of Customs on board, if any such Officer be on board. If any goods sent to be landed be found without a boat-note in any boat proceeding to land, such goods shall be liable to confiscation; or the person by whose authority the goods are being landed, or the person in charge of the boat, if it appear that the fault was with him, shall be liable to a penalty not exceeding twice the amount of Duty leviable on the said goods.

Entry for home consumption.

LXII. The importer, owner, or consignee of any goods liable to Duties of Customs, and intended to be delivered for home consumption on the landing thereof from the importing ship, or the agent of such importer, owner, or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House a bill of entry thereof in such form and containing such particulars as may, from time to time, be directed by the Chief Customs Authority of the Presidency or place, The particulars of such entry shall correspond with the particulars given of the same goods and packages in the Report or Manifest of the ship. Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry. Provided that, if the importer, owner, or consignee, or his agent, shall make a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package, or parcel of goods, then the Officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an Officer of Customs. Except as provided in Section XXVII of this Act for cases of obvious error, no revaluation of goods assessed for Duty on the declared value

thereof shall be allowed after such goods shall have been removed from the Custom House.

Penalty for goods being delivered without entry.

LXIII. If without entry duly made, any goods shall be taken or passed out of any Custom House or Wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred Rupees. Provided that no entry shall be required in respect of passengers' baggage, which may be examined, landed, and delivered under such rules as shall from time to time be made under Section IV of this Act by the Chief Customs Authority of the Presidency or place. Any prohibited or dutiable goods found, either before or after landing, concealed in any such baggage, together with the other contents of the package in which they are found, shall be liable to confiscation.

Proviso as to passengers' baggage.

Penalty for goods being removed after landing and before due entry.

LXIV. If, after any goods have been landed and before they have been passed through the Custom House, the importer, owner, or consignee, or his agent, or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the Revenue, such goods shall be liable to confiscation; or, if the goods cannot be recovered, the owner shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of such Duty, if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding one thousand Rupees for every missing or deficient package of unknown value.

Claims to abatement of Duty on account of damage how to be treated.

LXV. No claim for any abatement or refund of Duty on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Port in British India, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a Custom House Appraiser, or by such other person as the Officer in charge of the Custom House shall appoint for the purpose.

Disposal of damaged goods and levy of Duty thereon.

LXVI. Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may, after notice in the Official Gazette, be sold by public auction at such time (within thirty days from the date of entry), and at such place, as the Officer in charge of the Custom House shall appoint. The Duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account sales, without any abatement or deduction whatsoever, except of so much as represents the Duties payable on the importation thereof. On goods the value of which shall have been fixed under the provisions of Section CLXXIX of this Act, no abatement of Duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value. No abatement of Duty on account of damage shall be allowed on Wines, Spirits, or Beer, or on any other Articles on which Duties are levied on quantity and not on value.

Goods derelict and wreck to be treated as Foreign Goods.

LXVII. All goods derelict, jetsam, flotsam, and wreck brought or coming into any Port in British India, shall, at all times, be subject to the same Duties to which goods of the like kind are subject on importation at such Port, unless it shall be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted Duty free; or that such goods, if liable to Duty, are entitled to an abatement in respect of damage.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

LXVIII. The Officer in charge of the Custom House, whenever he shall see fit, may require that goods brought by Sea, and stowed in bulk, shall be weighed or measured on board ship before landing, and may levy Duty according to the result of such weighing or measurement.

No Duty on portion of import cargo intended for another Port, ship's stores, &c.

LXIX. Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master or Commander of any vessel as not to be landed, and may thereupon,

with the special sanction of the Officer in charge of the Custom House, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of Duty. Provided that all such cargo and ship's stores shall be entered in the Export Manifest of the vessel, as cargo or ship's stores not landed, and on which no Duty has been paid. Nothing in this Section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

WAREHOUSING.

Deposit of goods in warehouse without payment of Duty.

LXX. It shall be lawful for any person who has imported any goods into any warehousing Port in British India to deposit such goods, without payment of Duty on the first entry thereof, in any public or private warehouse, approved, appointed, or licensed under this Act.

Public warehouses.

LXXI. Every building in any warehousing Port or place, which the Chief Customs Authority of the Presidency or place shall from time to time approve or appoint for the purpose, shall be a public warehouse for the reception of goods under this Act. Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs of the Port or place in which it is situated. The warehouse-keeper shall, to the extent provided in Sections LXXVI and XCIII of this Act, and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

Responsibility of keeper.

Chief Customs Authority to decide what goods may be deposited in public warehouse, and on what terms.

LXXII. The Chief Customs Authority of the Presidency or place may from time to time determine in what divisions of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods, may be deposited without payment of Duty on the first entry thereof. A table of the rates of rent

so fixed for every public warehouse shall be placed in a conspicuous part thereof.

Chief Officer of Customs may license private warehouses at any warehousing Port or place.

LXXIII. At any warehousing Port or place, the Chief Officer of Customs of the Port or place shall have power to license private warehouses for the reception of goods under this Act without payment of Duty on the first entry thereof. Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs of the Port or place in which such warehouse is situated.

Form of application for license for private warehouses.

LXXIV. Every application for a license for a private warehouse shall be in writing, and shall be drawn up in the form marked A annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

Form of application for the admission of goods into warehouse.

LXXV. Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the form marked B annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

No goods to be warehoused without payment of Duty, unless assessed for Customs Duty.

LXXVI. No goods shall be warehoused without payment of Duty on the first entry thereof unless such goods shall have been assessed for Customs Duty in like manner as goods intended to be passed for home consumption.

Public warehouse-keeper or license-holder of private warehouse to be answerable for weight or guage.

The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or guage reported by the Custom

House Officer who shall have assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Section XCV of this Act. Nothing in this Section shall interfere with the re-assessment for Duty of warehoused goods on their clearance for home consumption, should an alteration of any Duty or of any fixed valuation for Duty render such re-assessment requisite with reference to the provisions of Section XXIX of this Act.

Saving of the re-assessment of warehoused goods on clearance for home consumption.

LXXVII. When an application shall have been made for the warehousing of any goods under this Act, and when such goods shall have been assessed for Duty as directed in the last preceding Section, the importer, owner, or consignee, or his agent, shall be required to execute a bond for the amount of such Duty in the form marked C annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place. Every such bond shall relate to the Duties chargeable on the cargo or portion of the cargo of one vessel only.

Bond under what circumstances to be taken. Form and conditions of bond.

LXXVIII. Every bond shall be for twice the amount of Duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand at such rate, not exceeding six per cent. per annum, as shall be fixed by the Chief Customs Authority of the Presidency or place. Every person who shall execute any such bond shall be bound thereby for the payment of all Duties, interest, and charges that shall be claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

Terms of bond to be executed.

LXXIX. When any such bond shall have been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years, without being liable to the demand of Import Duty.

Period for which goods may remain warehoused under bond.

Penalty for improper carrying into warehouse.

LXXX. If any goods entered to be warehoused shall be carried into the warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers shall direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand Rupees.

Procedure in respect of goods to be warehoused.

LXXXI. When the provisions of Sections LXXV, LXXVI, LXXVII, and LXXVIII shall have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the warehouse in which they are to be deposited. There shall be sent with the goods a pass in which the name of the importing vessel, and of the bonder, the marks, numbers, and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited, shall be specified. On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper Officer, and the pass shall be returned to the Officer in charge of the Custom House, after which the warehousing of such goods shall be deemed to have been completed. If any goods entered to be warehoused shall be withheld, or removed from any proper place of examination, before they shall have been examined and certified by the proper Officer, it shall be deemed that such goods have not been duly warehoused, and they shall be liable to confiscation.

Proviso as to confiscation.

Penalty for mis-description of goods.

LXXXII. When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or mis-description thereof, tending to injure the Revenue be liable to a penalty not exceeding ten times the amount of Duty which might have been lost to Government by such omission or mis-description, unless it shall be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental. If the quantity or value of any

goods shall have been over-stated on importation, the error may be rectified at any time before the warehousing of the goods shall be completed.

Package, &c., to be marked and numbered before admission into warehouse.

LXXXIII. No package, butt, cask, or hogshead shall be admitted into any public or private warehouse, unless it bear the marks and numbers specified in the pass for its admission. All goods shall be warehoused in the packages, butts, casks, or hogsheads in which they shall have been imported, except as provided in Section XCII of this Act. If any such goods be not so warehoused, or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in the said Section, or if any such goods be removed from the warehouse in which they were originally deposited, except in presence, or with the sanction of the proper Officer, or under the proper authority for their delivery, such goods shall be liable to confiscation.

Proviso as to confiscation.

Penalty for neglecting to stow goods properly in warehouse.

LXXXIV. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall neglect to stow the goods warehoused therein so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty Rupees.

Or for neglecting to produce goods when required.

LXXXV. If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall fail, on the requisition of any Officer of Customs, to produce any goods which shall have been deposited in such warehouse, and which shall not have been duly cleared and delivered therefrom, he shall, for every such neglect, be liable not only to pay the Duties due on such goods, but also to a penalty not exceeding fifty Rupees in respect of every package or parcel so missing or deficient.

Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.

LXXXVI. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or after being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted

from any package, or transferred from one package to another or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

Officer in charge of Custom House may cause packages lodged in warehouse to be opened and examined.

LXXXVII. The Officer in charge of the Custom House shall have authority at any time to issue his written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he shall direct; and after any goods shall have been so opened or examined, to cause the same to be sealed or marked in such manner as to him may seem fit. When any goods shall have been so sealed and marked, after examination, they shall not be again opened without permission from the Officer in charge of the Custom House; and when any such goods shall be opened with the permission of such Officer, the packages shall, if it shall seem fit to such Officer, again be sealed or marked as before.

Penalty for holder of license of private warehouse, refusing access to Customs Officers.

LXXXVIII. The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act; and if the person who has obtained a license for any such private warehouse shall not open the same when required so to do by any Officer entitled under this Act or under any other law to have access thereto, or shall, upon demand made by any such Officer at any time within the hours of business at the Port, refuse access to any such Officer, such person shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

When bond shall become due, for Duty on goods in private warehouse deprived of license.

LXXXIX. Every bond executed for Duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such Duties and other demands of Customs after seven days shall have passed from the date on which the Officer in charge of the Custom House shall have given notice that the license for such warehouse is withdrawn.

Owners to have access to warehoused goods attended by an Officer of Customs during business hours.

XC. Any importer, owner, or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner, or consignee shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House. When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House shall find it expedient to employ such special Officer.

Penalty for importer or owner of warehoused goods clandestinely gaining access.

XCI. If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, shall clandestinely open any warehouse, or, except in presence of the proper Officer of Customs, gain access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Goods in warehouse may be sorted, re-packed, &c., by owner, &c.

XCII. With the sanction of the Officer in charge of the Custom House, and after such notice given, and under such rules and conditions as the Chief Customs Authority of the Presidency or place shall from time to time prescribe, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or after warehousing, to sort, separate, pack, and re-pack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be re-packed in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House shall permit); and also to fill up any casks of Wine, Spirits, or Beer from any casks of the same secured in the same warehouse;

and also to mix any Wines of the same sort, erasing from the cask all import brands, unless the whole of the Wine so mixed be of the same brand; and also to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of Duty, except as the same may eventually become payable on a deficiency of the original quantity; and after such goods have been so separated and re-packed in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or re-packing (or, at the like request, any goods which may not be worth the Duty) to be destroyed, and may remit the Duty payable thereon.

Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.

XCIII. No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public warehouse, compensation for any loss or injury that may occur to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an Officer of Customs.

Chief Customs Authority may remit Duties on warehoused goods lost or destroyed, and if goods are damaged, Duty to be levied on actual value.

XCIV. If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, shall be lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing, or during receipt into the warehouse, or in the warehouse, the Chief Customs Authority of the Presidency or place may remit the Duties due thereon or return them if paid. Provided that, if any goods be so destroyed in a private warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction. If goods lodged in a warehouse shall receive damage through unavoidable accident, they shall be re-assessed for Duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

XCV. The Import Duty on all goods shall be settled on the quantity or value thereof, as the case may be, registered at the time of importation, without any deduction whatever. Provided that if it shall appear, at the time of clearing any Wines, Spirits, Beer, or Salt from any warehouse, that a deficiency exists, an allowance (on account of ullage and wastage) shall be made in adjusting the Duties thereon, to an extent not exceeding the rates specified below, or in such Table as may from time to time be prescribed in this behalf by the local Government and notified in the Official Gazette :—

Import Duty to be on the quantity or value registered at time of importation.

Proviso as to wines, spirits, beer, or salt.

Rates of ullage or wastage in respect of Wines, Spirits, and Beer in cask.

For any time not exceeding	6 months	2½	per Cent.
Exceeding 6 months and not exceeding	12 months	5	"
Exceeding 12 months and not exceeding	18 months	7½	"
Exceeding 18 months and not exceeding	2 years	10	"
Exceeding 2 years and not exceeding	3 years	12½	"

When Salt is warehoused in a Government Golah or Store-house under charge of a Government Officer, Duty of Customs shall be chargeable only on the amount actually cleared.

The rate of wastage to be allowed in adjusting the Duties on Salt warehoused in a private Golah or Store-house, shall be prescribed from time to time by the local Government and notified in the Official Gazette.

XCVI. If any goods lodged in a private warehouse shall be found to be deficient at the time of delivery therefrom, the person who obtained the license for such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the Duty chargeable on the goods so deficient. Provided that nothing in this Section shall apply to any Wines, Spirits, Beer, or Salt, the deficiency in which is proved to be due solely to ullage or wastage; and that it shall be competent to the Chief Customs Authority of any Presidency or place to direct, in respect to any such article, and for the purposes of this Section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in the last preceding Section.

Penalty for deficiencies in a private warehouse, if beyond ullage and wastage allowed.

Penalty for excess, in private warehouse, over registered quantity.

XCVII. If any goods lodged in a private warehouse shall be found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary Duty thereon. When any penalty shall be incurred under this or the last preceding Section, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

Goods not to be removed from warehouse, except after application to the Officer in charge of the Custom House.

XCVIII. No goods shall be removed from any warehouse, except after application to the Officer in charge of the Custom House, for permission to pass the goods for exportation by Sea to some Foreign Port or place; or for home consumption, in like manner as other goods are passed through the Custom House; or for removal to another warehouse, as provided in Sections CV, CVI, CVII, and CVIII of this Act.

Form of application for removal of goods. Twenty-four hours' notice to be given.

XCIX. Application to remove goods from any warehouse shall be made in the form marked D annexed to this Act, or in such other form as the Chief Customs Authority of the Presidency or place may from time to time prescribe. Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods.

Penalty if goods be taken out of warehouse without entry.

C. If any goods shall be taken out of any warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the Duties due upon such goods; and every person who shall so take out any goods without payment of Duty, or who shall aid, assist, or be concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no Duty shall be payable in respect of such goods, and any damage so occasioned

by such Officer shall, with the sanction of the Chief Customs Authority of the Presidency or place, be repaid by the Officer in charge of the Custom House to such importer, owner, or consignee.

Expenses of carriage, packing, &c., to be borne by owners.

CI. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a warehouse, shall, if paid by the Officer in charge of the Custom House, or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the Duties of Customs.

Payment of rent and warehouse dues. In case of failure, goods may be sold, &c.

CII. If goods be lodged in a public warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse dues. If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House shall have power, in liquidation of such demand, (any transfer or assignment of the goods notwithstanding) to cause to be sold by public auction, after due notice in the Official Gazette such sufficient portion of the goods as he may select. Out of the proceeds of such sale, the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if there be any, to the importer, owner, or consignee; provided that application for the same be made within one year from the date of the sale of the goods, or that good reason be shewn why such application was not so made.

Disposal of proceeds.

On goods being removed otherwise than for export, &c., full Duty to be paid.

CIII. If any goods warehoused as provided in this Act shall be removed or taken from the warehouse, otherwise than for removal to another warehouse as provided in Sections CV, CVI, CVII, and CVIII of this Act, or for exportation by Sea to some Foreign Port or place; or

if any goods shall not have been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse, the Officer in charge of the Custom House shall thereupon demand the full amount of import Duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

On failure to pay Duty, Officer in charge of Custom House may proceed against goods, or under the bond, and may detain goods and sell after ten days, if demand not paid.

CIV. If any importer, owner, or consignee shall fail to pay any Duty or penalty that shall fall due on account of goods warehoused under this Act, it shall be lawful for the Officer in charge of the Custom House either to proceed upon the bond executed by such importer, owner, or consignee, or to cause such portion as to him shall seem fit of the warehoused goods, on account of which the Duty or penalty is demanded, to be detained in satisfaction thereof; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand after due notice in the Official Gazette. The proceeds of any sale so made of goods so detained, shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods; provided that application for the same be made within one year from the date of the sale, or that good reason be shown why such application was not so made. No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods in the manner above provided for any demand of Customs Duties or penalty claimed thereon.

Disposal of proceeds.

Goods may be removed from one warehouse to another, application being made according to prescribed form.

CV. Any importer, owner, or consignee of goods warehoused under this Act, or any agent of such importer, owner, or consignee may, with the permission of the Chief Officer of Customs of the Port, and on such conditions

and after giving such security as the Chief Customs Authority of the Presidency or place shall direct, remove goods from one public or private warehouse to another warehouse in the same Port. When any person shall desire so to remove any goods, he shall make application in the form marked E annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe.

Bonded goods may be removed from one Port to another.

CVI. Goods warehoused under this Act at any Port or place in British India may in like manner be removed by Sea or by inland carriage in order to be re-warehoused at any other Port or place in British India in which the like kind of goods may lawfully be warehoused. Such goods may also again in like manner be removed to any other such Port or place to be there again warehoused. When any person shall desire so to remove any goods, he shall make application to the Chief Officer of Customs of the Port or place at which they are warehoused, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority of the Presidency or place shall from time to time prescribe.

Procedure.

Officers at Port of removal to transmit account of goods to Officers at Port of destination. Owner to execute bond for due arrival, &c.

CVII. When permission is granted for the removal of any goods from one warehousing Port or place to another under the last preceding Section, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination, and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination, within such time as the Chief Customs Authority of the Presidency or place shall direct. Such bond may be taken by the proper Officer, either of the Port or place of removal, or of the Port or place of destination, as shall best suit the residence or convenience of the persons

interested in such removal. If such bond shall be taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods shall be produced to the proper Officer, and duly re-warehoused at the Port or place of destination, within the time allowed for such removal, or shall be otherwise accounted for to the satisfaction of such Officer; nor until the full Duties due upon any deficiency of such goods, not so accounted for, shall have been paid.

Remover may enter into a general bond.

CVIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to permit any person desirous of removing warehoused goods, to enter into a general bond, with such sureties, in such amount, and under such conditions, as such Chief Customs Authority shall approve, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination, within such time as the said Chief Customs Authority shall direct.

Goods on arrival at Port of destination to be subject to same laws as goods on first importation

CIX. Upon the arrival of warehoused goods at the Port or place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last mentioned goods.

Goods brought into one Indian Port, but intended for another Indian Port, may be trans-shipped without payment of Duty on security being given.

CX. When goods are brought in any vessel to any Port in British India, and application is made for leave to trans-ship such goods for removal to some other Port in British India, such trans-shipment shall be allowed without the payment of Duty at the Port of trans-shipment, provided that the person requiring such trans-ship

ment shall enter into a bond with such security as may be required of him, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of trans-shipment shall direct. Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of Sections CVI and CVII of this Act. An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

On arrival at destination of goods removed under Sec. CX, they may after formal re-warehousing, be entered for exportation or home use on payment of Duties.

CXI. If, on the arrival at the Port of destination, of goods removed under the last preceding Section, the person making the removal shall be desirous forthwith to export such goods by Sea to some Foreign Port or place, or to pay Duty thereon for home consumption without actually lodging the goods in the warehouse for which they had been entered, the Officer in charge of the Custom House at such Port of destination may, after all the formalities of entering and examining such goods for re-warehousing shall have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home consumption, upon payment of the Duties due thereon, in like manner as if such goods had been actually lodged in such warehouse. All goods so exported, or for which the Duties have been so paid, shall be deemed to have been duly cleared from the warehouse.

Removal of goods to be noted on the bond, with particulars.

CXII. When any goods warehoused as provided in this Act shall be removed from any public or private warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond. Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the Export Pass under which they have been taken away, if removed for exportation by Sea, or of the

Import Pass or order, if removed for home consumption, and the amount of Duty (if any) paid.

CXIII. A register shall be kept of all bonds entered into for Customs Duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in the last preceding Section. When the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home consumption on the payment of Duties, or owing to their re-exportation by Sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods shall have been paid, it shall be competent to, and shall be the duty of, the Officer in charge of the Custom House, to cancel such bond, as discharged in full, and to deliver it, so cancelled, to the person who shall have executed or who shall be authorized to receive it.

A register of bonds to be kept. When the bonds are to be cancelled and returned to the obligee.

CXIV. In no case shall the settlement of Duty on warehoused goods be delayed beyond three years from the date of the first warehousing of the goods in British India.

Duty on warehoused goods to be settled within three years.

CXV. All the provisions of this Act relating to private warehouses shall be applicable to all warehouses wherein the Bengal Bonded Warehouse Association shall receive bonded goods.

Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

EXPORTATION.

CXVI. No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application shall have been duly made to the Officer in charge of the Custom House by the Master or Commander of such vessel, or by his authorized agent, nor until an order shall have been given thereon by such Officer for such entry or shipment of cargo. Every application made under this Section shall specify the name, tonnage, and nation of the vessel, the name of the

Permission for entry outwards to be obtained before export cargo is put on board.

Master or Commander, and the name of every place for which cargo is to be shipped. If any goods be taken on board of any vessel at any Port in British India before she shall have been so entered outwards at such Port, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees.

Penalty.

CXVII. A period of fifteen working days, after the expiration of the period allowed for discharging import cargo under Section LI of this Act, or such further period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs) for the shipment of export cargo on board of every vessel not exceeding six hundred tons. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred. If the period occupied in the shipment of export cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period. Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import cargo, and before the commencement of the shipment of export cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master or Commander. If the Master or Commander of any vessel so laid up shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master or Commander shall be liable to a penalty not exceeding one thousand Rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.

Period allowed for the shipment of export cargo.

Consequence of exceeding same.

Penalty for lading in the absence of Customs Officer.

CXVIII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday, or

Goods not to be shipped except on proper days and places, nor until entry and clearance.

on any holiday or day on which the shipping of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be shipped or water-borne to be shipped for exportation from any Port in British India; nor, except with such written permission, shall any goods be so shipped or water-borne to be shipped on any day except between such hours as such Chief Customs Authority shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port except a Wharf duly appointed for such purpose; nor without the presence of the proper Officer of Customs; nor before due entry outwards of the exporting vessel, and of the goods: nor before such goods shall have been duly cleared for shipment. Any person who shall cause or suffer any goods to be shipped or water-borne to be shipped contrary to any of the provisions of this Section shall, in every such case, be liable to a penalty not exceeding one thousand Rupees; and any goods so unauthorizedly shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation.

Penalty for contravention.

CXIX. It shall be lawful for an Officer of Customs to open any package, and fully to examine any goods shipped or brought for shipment at any place in British India.

Customs Officer may open package and examine goods shipped.

CXX. It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to send at his discretion one or more Officers of Customs on board of any vessel clearing from such Port. Every Officer of Customs so sent shall remain on board of such vessel by day and by night, until it shall be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the shipment of cargo may take place without the presence of an Officer of Customs.

Officer in charge of Custom House may send Officers of Customs on board of any vessel clearing from Port.

And may allow shipment without presence of Officer

CXXI. Every Master or Commander of a vessel who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to take in cargo until the penalty is paid.

Penalty for refusal to receive on board a deputed Officer of Customs.

CXXII. Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs under Section CXX of this Act, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

One servant to be received on board with each Officer of Customs. Accommodation of Officer, &c.

Penalty.

CXXIII. No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent shall have filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the form marked F appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Exporter to deliver shipping bill before shipping any goods.

CXXIV. Before any warehoused goods, or goods subject to duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, shall be permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the Duty leviable on such goods, as the Officer in charge of the Custom House shall direct, with one sufficient surety that such goods shall be duly shipped, exported and landed, at the place for which th ey

On entry outwards, bond-note to be given for the shipping and landing.

are entered outwards, or shall be otherwise accounted for, to the satisfaction of such Officer.

Boat-note.

CXXV. When any goods shall be sent for the purpose of being shipped for exportation on board of any vessel, there shall be sent with each boat-load or other separate despatch a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note shall be signed by the proper Officer of Customs, and shall be delivered to the Officer of Customs who is on board of the vessel on which such goods are to be shipped, if any such Officer be on board. If no such Officer be on board, every such boat-note shall be delivered to the Master or Commander of the vessel, or to an Officer of the vessel appointed by such Master or Commander to receive it. If any person so receiving any such boat-note shall fail to deliver it, when required so to do by any Officer of Customs authorized to make such requisition, such person shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for non-delivery of boat-note.

No vessel to depart without a Port-clearance.

CXXVI. No vessel, whether laden, partially laden, or in ballast shall depart from any Port in British India until a Port-clearance shall have been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same. Every application for Port-clearance shall be made by the Master or Commander at least twenty-four hours before the intended departure of the vessel; and every Master or Commander of a vessel so applying for Port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as shall be demanded of him. If any Master or Commander of a vessel shall attempt to depart without a Port-clearance, such Master or Commander shall be liable to a penalty not exceeding five hundred Rupees. If any vessel shall actually depart without a Port-clearance, the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees; and such penalty may be levied by the Chief Officer of Customs of any Port in British India to which such vessel

Penalties.

shall proceed or in which she shall be. A certificate of departure without Port-clearance purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

No Pilot to take charge of any vessel proceeding to Sea without production of Port-clearance.

CXXVII. Except when duly appointed by the Master Attendant at any Port, or by some other Officer duly empowered in that behalf by the local Government, no Pilot shall take charge of any vessel proceeding to Sea, unless the Master or Commander of such vessel shall produce a Port-clearance.

Penalty.

Every person convicted before a Magistrate of an infraction of this rule, shall be liable to a penalty not exceeding one thousand Rupees.

The Master of a vessel, on applying for Port-clearance, to deliver a Manifest and certificates.

CXXVIII. The Master or Commander of every vessel intending to leave any Port in British India shall, at the time of applying for Port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a Manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, containing a full and true specification of all goods to be exported in the vessel; and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, shall require. The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied, with the said certificates and as to the correctness of the Manifest, shall grant a Port-clearance to the Master or Commander and shall return at the same time to such Master or Commander one copy of the Manifest duly countersigned by the proper Officer of Customs.

Port-clearance may be refused unless all documents are delivered and charges paid.

CXXIX. It shall be competent to the Office or in charge of the Custom House to refuse Port-clearance to any vessel until the required Manifest and certificates are produced, and until all Port-dues and other charges

and penalties due by such vessel, or by the Master or Commander thereof, are duly paid or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House shall direct.

Certain goods if entered in Manifest and not shipped, liable to confiscation. Penalty for shipment of goods not in Manifest, &c.

CXXX. If any goods liable to Duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the Manifest of any vessel, shall not be duly shipped before the departure of such vessel, or shall not be duly certified by the proper Officer as short-shipped, such goods shall be liable to confiscation. If any goods not enumerated in such Manifest shall be taken on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding fifty Rupees in respect of every package of such goods. If any goods duly shipped on board of any such vessel be landed at any place other than that for which they shall have been so cleared, the Master or Commmander of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

Additional charge on goods passed for shipment after Port-clearance has been granted.

CXXXI. When goods are passed through the Custom House for shipment on an application presented after Port-clearance shall have been granted, two per cent. upon the market value of any such goods not liable to Duty, or liable to specific Duties according to weight or quantity only or to Duty according to value, and upon the Tariff value of goods so passed, which are liable to Duties on fixed Tariff valuations, shall in every case be levied in addition to any Duty to which such goods shall be ordinarily liable. Provided that nothing in this Section shall be deemed to apply to any shipment of Treasure or Opium.

Duty on goods not shipped or re-landed may be returned on application.

CXXXII. Upon an application being made to the Officer in charge of the Custom House, the Duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose

behalf such Duty was paid. Provided that no such refund shall be allowed unless application to re-land shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the Port.

Proviso.

CXXXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint, for any Port within such Presidency or place, stations at which any vessel departing from such Port may be required to bring to for the landing from such vessel of Officers of Customs, or for further examination previous to such departure.

Stations may be appointed at which outward bound vessels shall bring to to land Officers of Customs.

CXXXIV. If the Master or Commander of any vessel departing from any Port in British India shall, when so required, fail to bring to at any station that shall have been appointed by the Chief Customs Authority of any Presidency or place under the last preceding Section, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If any vessel shall actually depart after failing to bring to when required, at any station appointed under the last preceding Section, the penalty leviable under this Section from the Master or Commander of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of such failure to bring to when required purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *primâ facie* proof of the fact so certified.

Penalties in case of vessels not bringing to at prescribed Stations.

CXXXV. If any vessel, after having cleared from any Port in British India, shall, without having discharged her cargo, return to such Port, or put into any other Port in British India not being a Free Port, any owner or shipper of cargo in such vessel, or the agent of any such owner or shipper, if he shall desire to land the same or any portion there-

Goods re-landed from a vessel returning to Port, or putting into another Port, how to be dealt with.

of for re-export, may make application to the Officer in charge of the Custom House; who, if he grant such application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board. Goods on board of such vessel shall not be allowed to be trans-shipped or re-exported free of Duty, by reason of the previous settlement of Duty at the time of first export, unless such goods shall be lodged and shall remain, under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export. All charges attending such custody shall be borne by the exporter.

Vessel returning to port may enter and land goods under import rules.

CXXXVI. In any case of the return of any vessel to Port, after Port-clearance, it shall be lawful for the Master or Commander of such vessel, or for any owner or shipper of cargo therein to enter such vessel and to land such cargo under the rules for the importation of goods. In every such case the Export Duty shall be refunded to, and the amount paid in drawback shall be reclaimed from, such owner or shipper; and if any goods, on account of which drawback has been paid, be not found on board of any such vessel the Master or Commander shall be liable to a penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House.

Penalty for deficiency

DRAWBACK.

Amount of drawback allowable on re-export.

CXXXVII. Upon the re-export by Sea, to any Foreign Port or place, of any goods, except Salt or Opium, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, seven-eighths of such Duty shall be repaid as drawback, and one-eighth shall be retained as reserved Duty. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House; and that the

Conditions for grant of Drawback.

re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place shall on sufficient cause for such extension being shown, in any case determine. No re-payment shall be made under this Section on account of any article entered in the Export Manifest of the Vessel as Ship's Stores. Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation. But it shall be lawful for the said Chief Customs Authority in any such case to direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles.

Time to claim and demand payment of drawback.

CXXXVIII. No payment of drawback shall be made upon any goods re-exported from any Port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment. No such payment of drawback shall be made until the vessel carrying the goods has put out to Sea.

Drawback not allowed on goods of value less than amount claimed. Such goods liable to confiscation.

CXXXIX. No drawback shall be allowed upon the exportation of any goods entered for drawback, which shall be of less value than the amount of the drawback claimed. All such goods so entered shall be liable to confiscation.

No drawback on goods not entered in Export Manifest.

CXL. No drawback shall be allowed upon goods not included in the Export Manifest.

No drawback allowed except on goods exported out of India.

CXLI. No drawback shall be allowed upon goods exported from one Port in British India, to another such Port, not being a Free Port. But drawback may be allowed upon goods which, after having been charged with Duty at one Port in British India, and thence exported to another such Port not

being a Free Port, are thence again re-exported by Sea to a Foreign Port or place. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House at the Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India.

Proviso.

CXLII. Any person, or the duly authorized agent of any person, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed and are not intended to be re-landed at any Port in British India; and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon.

Declaration to be made by parties claiming drawback.

CXLIII. If any goods on the entry of which for re-export drawback shall have been paid shall not be duly exported to a Foreign Port or place, or shall be un-shipped or re-landed at any Port in British India (not having been duly relanded or discharged as short-shipped under the care of an Officer of Customs, or under Section CXXXV or Section CXXXVI of this Act), such goods, together with any vessel used in so un-shipping or re-landing them, shall be liable to confiscation; and the Master or Commander of the vessel from which such goods shall be so un-shipped or re-landed, and any person by whom or by whose orders or means such goods shall be so un-shipped or re-landed, or who shall aid or be concerned in such un-shipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand Rupees.

Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.

CXLIV. A drawback of the whole of the Duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine shall have been warehoused without payment of Duty on the first entry

Drawback of Duties on wine allowed for Officers of the Navy.

thereof. The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below; that is to say:—

	Gallons.
For every Admiral	1,260
Vice-Admiral	1,050
Rear-Admiral	840
Captain of 1st and 2nd rate	630
Captain of 3rd, 4th, and 5th rate	420
Captain of an inferior rate	210
Lieutenant or other Commanding Officer, and for every Marine Officer, Master, Purser, or Surgeon...	105

Persons entering such wine for drawback to declare the name and rank of Officer claiming the same.

CXLV. Every person clearing and claiming drawback for wine as provided in the last preceding Section, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed. All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care; and when the Officer commanding the ship shall have certified the receipt of such wine into his charge, and the proper Officer of Customs shall have certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine from one Naval Officer to another, &c.

CXLVI. The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer, on board of the same or of any other such ship, as part of his authorized proportion; or may permit the trans-shipment of any such wine from one ship to another for the use of the same Naval Officer; or the re-landing and warehousing of any such wine for future re-shipment. The Officer in charge of the Custom House may also receive back the Duties for any such wine, and allow the same to be cleared for home consumption.

Wine not laden or unladen without permission, liable to confiscation.

CXLVII. If any such wine be not laden on board of the ship for which it was intended, or be unladen from such ship without the permission of the proper Officer of Customs, such wine shall be liable to confiscation.

Provisions and stores for Her Majesty's Navy exempt from Duty.

CXLVIII. Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of Duty; and where Duties shall have been paid on such provisions and stores, drawback of such Duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

COASTING TRADE.

No Duties on goods carried in coasting vessel.

Proviso.

CXLIX. No Duties of Customs shall be levied on any goods lawfully carried in any coasting vessel. Provided that nothing in this Section shall apply to Opium, Salt, or Spirits manufactured after the English method; or to goods brought from any Foreign Port or place to any Port in British India, and there trans-shipped for, or thence carried to, any other Port in British India without payment of Duty; or to goods removed in bond.

No drawback for goods shipped in a coasting vessel.

CL. No drawback shall be allowed for any goods shipped in any coasting vessel; but this shall not interfere with the allowance of drawback for goods duly manifested and exported by Sea to any Foreign Port or place in any Native vessel, other than a coasting vessel.

Local Government may regulate carriage of goods coastwise.

CLI. The local Government, acting under the general instructions of the Government of India, may from time to time determine, by rules to be published in the Official Gazette, on what conditions, and on what conditions only, goods may be carried coastwise, though not shipped at any Port in British India to be so carried; also in what cases, and in what cases

only, goods may be shipped in a vessel to be carried coastwise, before all goods brought in such vessel from a Foreign Port or place shall have been unladen. If, in contravention of any such rules so published, any goods shall be taken into or put out of any coasting vessel; or any coasting vessel shall touch at any Foreign Port or place, or deviate from her voyage, unless forced by unavoidable circumstances; or if the Master or Commander of any coasting vessel which shall have touched at a Foreign Port or place shall fail to declare the same in writing to the Officer in charge of the Custom House at the Port in British India at which such vessel shall afterwards first arrive, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to pay double Duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary Duty which shall in every case be levied on such goods.

Penalty for contravention.

CLII. Except with the written permission of the Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall on any Sunday or on any holiday or day on which the shipping or landing of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be un-shipped from any vessel arriving coastwise, or be shipped, or water-borne to be shipped, for carriage coastwise, at any Port in British India; nor, except with such written permission, shall any goods be so un-shipped, or shipped, or water-borne to be shipped, on any day except between such hours as the Chief Customs Authority shall from time to time appoint by notice in the Official Gazette; nor from any place in any such Port except a wharf duly appointed for such purpose; nor without the presence or authority of the proper Officer of Customs. Any person who shall cause or suffer any goods to be un-shipped, shipped, or water-borne to be shipped, contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding five hundred Rupees; and any goods so

Times and places for shipping of goods.

Penalty for contravention.

unauthorizedly un-shipped, shipped, or removed for shipment, shall be liable to confiscation.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

CLIII. The Master or Commander of every coasting vessel shall keep, or cause to be kept, a cargo-book in which shall be stated the name of the Master or Commander, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound. At every Port of lading such Master or Commander shall enter, or cause to be entered, in such book the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him. At every Port of discharge of any such goods, such Master or Commander shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel. The respective times of departure from every Port of lading, and of arrival at every Port of discharge, shall in like manner be duly entered. Every such Master or Commander shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein; and if, upon examination, any package entered in the cargo-book as containing Foreign goods, shall be found not to contain such goods, such package, with its contents, shall be liable to confiscation; or if any package shall be found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation. If any such Master or Commander shall fail correctly to keep such cargo-book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board, the Master or Commander of such vessel shall be liable to a penalty not exceeding five hundred Rupees.

Penalty for breach of rules.

CLIV. Before any coasting vessel shall depart from the Port of lading, an account, with a duplicate thereof in the form marked G appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, shall be filled in and signed by the Master or Commander and delivered to the Officer in charge of the Custom House. Such Officer shall retain the duplicate and return the original account, dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein. If any such account be false, the Master or Commander shall be liable to a penalty not exceeding five hundred Rupees.

Coasting vessels to deliver account and obtain Port-clearance, before leaving Port of lading.

Penalty in case of account being false.

CLV. The Officer in charge of the Custom House may, on good and sufficient reason, refuse Port-clearance to any vessel declared to be bound to any Port in British India, unless the owner, agent, Master, or Commander shall give a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a fair and reasonable time to be prescribed in each case by the Officer requiring the bond. On failure to produce such certificate, or to show sufficient reason for its non-production, the parties to the bond shall be bound to pay a penal sum equal to double the amount of Customs Duties which would have been chargeable on the export cargo of the vessel had she been declared to be bound to a Foreign Port.

Officer in charge of Custom House may require a bond before Port-clearance is granted.

Penalty for failure to produce certificate.

CLVI. The Chief Customs Authority of any Presidency or place may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading, of any coasting Steam vessel at any Ports of

Grant and revocation of general pass.

despatch or destination, or at any intermediate Ports at which she may touch for the purpose of receiving goods or passengers. Any such general pass may be revoked by notice in writing under the hand of the proper Officer, delivered to the Master or Commander, or to the owner of such Steam vessel, or to any of the crew on board.

Time for delivery of pass, and penalty for failure.

CLVII. Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery. Any Master or Commander who shall fail so to deliver a pass within twenty-four hours after arrival, shall be liable to a penalty not exceeding two hundred Rupees.

Goods on coasting vessel, if excisable, not to be unladen without due permission.

CLVIII. If any of the goods on board of any coasting vessel be subject to any Duty of Excise, such goods shall not be unladen without the permission of the proper Officer of Excise.

Penalty for breach in respect of lading, carrying coastwise, and unlading.

CLIX. If, contrary to the provisions of this or any other Act relating to the Customs, any goods shall be laden on board of any vessel in any Port or place in British India and carried coastwise, or any goods which have been brought coastwise shall be unladen in any such Port or place, or any goods shall be found on board of any coasting vessel without being entered in the clearance there of, such goods shall be liable to confiscation, and the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred Rupees.

Customs Officers may go on board and examine any coasting vessel.

CLX. Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel. The Officer in

charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection. If the Master or Commander of any such vessel shall refuse to bring any such document to the Officer in charge of the Custom House when so required, such Master or Commander shall be liable to a penalty not exceeding two hundred Rupees.

Penalty for refusal to produce documents.

CARGO BOATS.

CLXI. It shall be lawful for the local Government of any Presidency or place to declare with regard to any Port within its jurisdiction, by Notification in the Official Gazette, that after a stated date no boat which shall not have been duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such Port. After the issue of such Notification with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation.

Local Government may prohibit plying of unlicensed cargo-boats.

Goods found in unlicensed cargo-boats may be confiscated.

CLXII. It shall be lawful for the Chief Officer of Customs of any Port with regard to which a Notification shall have been issued under the last preceding Section, to issue licenses for and to make registration of cargo-boats, under such rules, and on payment of such fees as the local Government shall from time to time prescribe. Any table of fees prescribed under this Section shall be published in the Official Gazette.

Issue of licenses.

SPIRITS.

CLXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to prescribe from time to time the conditions on which and the rules under which spirits manufactured in British India

Rules for removal of spirits from distillery without payment of Duty, and for exportation thereof.

after the English method may be removed from any licensed distillery for exportation without payment of Duty of Excise. The person so removing any such spirit, shall execute to the Government a bond with one or more sureties, in the form marked H annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe, for the payment of Duty on such portion of the said spirits as shall not be exported within four months from the date of the bond, and upon any portion which shall be exported to any other Port in British India, not being a Free Port, but proof of the landing whereof and of payment of Duty of Customs whereon at the Port of destination shall not be furnished to the satisfaction of the proper Officer within six months from the date of the bond. It shall be lawful for the Chief Officer of Customs of the Port of exportation, to extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that Duty has been paid.

Spirits for export to be taken direct from Distillery to Custom House under pass.

CLXIV. Spirits for exportation under bond for the Duty Excise shall be taken from the distillery direct to the Custom House under passes to be granted for that purpose by the Officers of Excise.

Rules to be observed in the exportation of spirits.

CLXV. Spirits brought to the Custom House for exportation by Sea shall, previous to shipment, be gauged and proved by an Officer of Customs. Any drawback to be allowed for spirits on which Duty has been paid shall be regulated by the strength and quantity of such Spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

Duty to be recovered on any deficiency in spirits under bond.

CLXVI. Duty shall be recoverable upon any difference between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the Custom

House, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government and notified in the Official Gazette.

Drawback of Excise Duty on spirits manufactured after the English method.

CLXVII. A drawback of Duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of Section CXXIV of this Act, shall be allowed by the Officer in charge of the Custom House at the Port of exportation. Provided that the exportation be made within one year from the date of payment of such Duty of Excise, and that the spirits, when brought to the Custom House, are accompanied by the pass in which such payment is certified.

No drawback allowed on spirits exported to Indian Ports not being Free Ports, but such spirits may be exported under bond.

CLXVIII. No drawback shall be allowed on sprits exported from any Port in British India to any other Port in British India not being a Free Port. But it shall be lawful, on the conditions and under the rules prescribed from time to time under Section CLXIII of this Act, to export from any such Port to any other such Port, under bond for the duty of Excise, spirits manufactured in British India after the English method. Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such Port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government, and notified in the Official Gazette.

Duty on Spirits exported from one Indian Port to another, how to be adjusted.

CLXIX. Spirits manufactured in British India after the English method and exported under bond for the Duty of excise from any Port in British India to any other Port in British India not being a Free Port, shall be chargeable at the Port of destination with Duties of Customs at the ordinary rate fixed for Duties on Spirits of the like kind and strength imported into such Port.

CLXX. Any Rum Shrub, cordial, and other such liquor prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery, shall be charged with Duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer. The provisions of this Act respecting Spirits manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor. When any such liquor is removed for exportation, without payment of Duty of Excise, the bond to be executed by the person removing it shall be in the form marked H. annexed to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place.

Rum Shrub, &c., how to be charged with Duty.

May be exported under the same rules as spirits

CLXXI. Spirits brought to the Custom House for exportation under bond for the Duty of Excise may, on payment of such Duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise. Credit for every such payment shall be given on settlement of the bond to which it relates.

Spirits intended for exportation may be removed for local consumption.

CLXXII. No drawback shall be allowed for any Spirits on which Duty has been paid, nor shall the Duty due on any Spirits under bond be remitted, unless the Spirits shall be shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from an Officer of Excise in addition to the usual order of the Officer in charge of the Custom House.

Conditions of Drawback and remission of Duty on Spirits.

Re-land of Spirits shipped.

CLXXIII. Every person who, without a special pass from an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred Rupees; and all such liquor, together with every

Penalty for irregularly re-landing spirituous liquors.

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cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

AGENTS.

Agents must be duly authorized.

CLXXIV. No person shall act in any Custom House as an Agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House. It shall be lawful for such Officer to require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding five thousand Rupees, for the faithful behaviour of such person, as regards the Custom House Regulations and Officers. Every person who, not being so authorized, shall act as an agent, shall for every such offence be liable to a penalty not exceeding five hundred Rupees.

Penalty for acting without authority.

Agent to produce authority if required.

CLXXV. When any person shall make application to any Officer of Customs to transact any business on behalf of any other person, such Officer may require the person so applying to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business. The Clerk or servant or known agent of any person or of any mercantile Firm may transact business at the Custom House, on account of such person or Firm, if such person or a member of such Firm shall identify to the Officer in charge of the Custom House the person so empowered to transact his or their business, and shall deposit with such Officer a written authority duly signed, empowering such Officer to pay to such person all drawbacks, re-funds, and other monies for which he shall produce receipts.

DUPLICATE BILLS OF ENTRY, &c.

Importer or exporter to deliver a duplicate of the bill of entry, or shipping bill, if required.

CLXXVI. Upon the entry or clearance of any goods, for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer, exporter, owner, or

consignee shall, if the Officer in charge of the Custom House so require, deliver to such Officer a duplicate of the bill of entry or shipping bill thereof. In such duplicate all sums and numbers may be expressed in figures.

Penalty for non-compliance with the foregoing provision.

CLXXVII. Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter, owner, or consignee, who shall wilfully fail to comply with the provisions of the last preceding Section, shall be liable to a penalty not exceeding two hundred Rupees.

TAKING OF SAMPLES.

Officer in charge of Custom House may take samples of goods.

CLXXVIII. An Officer in charge of a Custom House may, on the entry or clearance of any goods, or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which Duties are payable, or for any other necessary purpose. Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to the owner as the Officer in charge of the Custom House shall direct.

MISCELLANEOUS PROVISIONS.

Local Government may, with sanction, fix value of *ad valorem* articles.

CLXXIX. It shall be lawful for the local Government of any Presidency or place, with the sanction of the Governor-General of India in Council, to fix from time to time by notice in the Official Gazette, a value for any article liable to *ad valorem* Duty; and the value so fixed shall, until it is altered by a similar notice, be taken to be the value of such article for the purpose of levying Duty on the same.

Assessment of goods liable to Duty according to value.

CLXXX. In all cases in which goods are liable to Duty according to the value thereof, and in which no value shall have been fixed by a general tariff or under the last preceding Section, the value shall be assessed at the wholesale cash price less trade discount, for which goods of the like kind and quality

are sold, or are capable of being sold at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the Duties payable on the importation thereof shall amount to.

Expense of piling, &c., timber chargeable by measurement by whom to be borne. No allowance for interstices.

CLXXXI. Any person entering any timber or wood chargeable with Duty by measurement, shall, at his own expense, pile, sort, frame, or otherwise place the same in such manner as the Officer in charge of the Custom House shall deem necessary to enable the Officers of Customs to measure and take account thereof. In all cases in which timber or wood is measured in bulk, the measurement shall be taken to the full extent of the pile, and no allowance shall be made by the Officers on account of interstices.

Trans-shipment of stores from one vessel to another of the same owner without payment of Duty.

CLXXXII. If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of Marine Stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be tran-shipped from one such vessel to any other such vessel without payment of import Duty.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported Duty free on certain conditions.

CLXXXIII. Provisions and other such Ship's Stores warehoused at the time of importation, may be exported without payment of Duty for use and consumption on board of any vessel proceeding to a Foreign Port or place. Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of Duty, whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House shall determine, with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart. Provided that no such rum shall be shipped as stores free of Duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

In case of dispute the Duty to be deposited pending orders of Chief Customs Authority.

CLXXXIV. If any dispute shall arise as to the proper rate of Duty payable in respect of any goods imported into, or exported from, any Port in British India, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation respectively, the amount of Duty demanded by such Officer, pending the decision of the Chief Customs Authority. Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner, or consignee, or his agent.

Payment of Duties short-levied or erroneously refunded.

CLXXXV. When Duty or other Customs dues or charges have been short-levied through inadvertence, error, or mis-construction on the part of the Officers of Customs; or when Duty, after having been levied, has been erroneously refunded, the person chargeable with the Duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within six months from the date of the first assessment, or making of the refund; and it shall be lawful for the Officers of Customs to refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application be made within six months.

CLXXXVI. No Duty or other Customs dues or charges which shall have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid und eran erroneous construction of law or from other error shall be returned, unless such claim is made within six months from the date of such payment.

Importer and exporter to pay expense incidental to compliance with Custom House rules.

CLXXXVII. The un-shipping, carrying, shipping, and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, un-pack-

ing, bulking, sorting, lotting, marking, and numbering of goods, where such operations are necessary or permitted, and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the importer, exporter, owner, or consignee of such goods.

No compensation for loss or injury except on proof of wilful neglect.

CLXXXVIII. No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury that may occur to such goods at any time while they remain or are lawfully detained in any Custom House, or on any Custom House Wharf, or under charge of any Officer of Customs, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

Rates of wharfage fees to be fixed by the Chief Customs Authority.

CLXXXIX. The Chief Customs Authority of any Presidency or place may from time to time fix the rate to be charged on goods left on any Custom House Wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority.

Saving of anchorage and harbour dues, also special dues on opium, tobacco, ganja, spirits, a d salt.

CXC. Nothing contained in this Act shall be construed to prevent the levy of any anchorage or harbour dues now leviable at any Port in British India, or the levy of any special Duties on Opium, Tobacco, Ganja, Spirits, or Salt, under any law which is or shall be in force in any part of British India.

Duplicates may be granted and amendments made on payment of fee.

CXCI. A Duplicate of any Certificate, Manifest, Bill, or other Custom House document may, on payment of a fee of not less than one Rupee and not more than ten Rupees, be furnished, at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended. The Officer in charge of the Custom House may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended.

Customs Officers may be exempted from service on any jury or inquest.

CXCII. No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or Collector of Customs shall deem it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

Offences and Penalties.

Penalty for Commanders of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.

CXCIII. If any goods be put on board of any tug-steamer or pilot-vessel from any Sea-going vessel inward bound, or if any goods be put out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel, or if any goods on which drawback shall have been granted shall be put on board of any tug-steamer or pilot-vessel for the purpose of being re-landed without the authority of the Officers of Customs, such goods shall be liable to confiscation, and the Master or Commander of such tug-steamer or pilot-vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for shipping, landing, concealing, &c., contrary to Act.

CXCIV. Any person shipping or landing goods, or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act; and any person who shall be found to have been on board of any vessel liable to confiscation under Section XIII of this Act, while such vessel was within any bay, river, creek, or arm of the Sea which had not then been declared to be and was not then existing as a Port for the landing or shipment of goods, shall be liable to a penalty not exceeding one thousand Rupees.

Vessels in Port with a cargo and afterwards found in ballast and cargo unaccounted for, liable to confiscation.

CXCV. If any vessel which shall have been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the Sea in British India, light or in ballast, and if the Master or Commander be unable to give a due account of the

Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

Tackle, &c., and packages and contents included in confiscation of vessels and goods. Also conveyances used in removal.

CXCVI. The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture. The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof. Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in like manner be liable toconfiscation.

Goods may be detained and Port-clearance refused pending the payment of fines incurred.

CXCVII. If any person in charge of or owning a vessel shall have become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse Port-clearance to such vessel until the fine or penalty be discharged. If any person passing goods through the Custom House shall have become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.

Persons reasonably suspected may be detained.

CXCVIII. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained.

CXCIX. Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs, may be detained in any place either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels and goods seized how to be dealt with.

CC. Every vessel, and all goods seized on the ground that they are liable to confiscation, shall, as soon as conveniently may be, be delivered into the care of the Officer appointed to

receive the same. If there be no such Officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure. If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest Office appointed by the Chief Customs Authority of the Presidency or place for the deposit of goods so seized.

Persons detained to be taken to nearest Magistrate or Officer of Custom House.

CCI. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before the nearest Magistrate or Officer in charge of a Custom House.

Persons taken before a Justice for offence under Customs Acts may be detained or admitted to bail.

CCII. When any person, detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, shall be taken before a Magistrate, such Magistrate may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the Police for such time as shall be necessary to enable such Magistrate to communicate with the Officers of Customs. Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as shall be appointed by such Magistrate for his appearance.

Any person escaping may be afterwards detained.

CCIII. If any person liable to be detained under this or any other Act relating to the Customs, shall not be detained at the time of committing the offence for which he is so liable, or shall, after detention, make his escape, such person shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

Persons in Her Majesty's Navy when detained to be secured on Board until warrant procured.

CCIV. When any person employed on the crew of any of Her Majesty's ships, shall be detained under this or any other Act relating to the Customs, the detaining Officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such

person in security on Board of such ship, until the detaining Officer shall have obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law. A Magistrate shall duly grant a warrant upon complaint made to him by the detaining Officer, stating the offence for which the person is detained.

When seizure is made, seizing Officer to give reason in writing.

CCV. When any vessel or goods shall be seized or any person shall be detained under this or any other Act relating to the Customs, it shall be the duty of the Officer or other person making such seizure or detention, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, to give to such person a statement in writing of the reason for such seizure or detention.

Procedure in respect of goods seized on suspicion.

CCVI. When any goods liable to confiscation under this or any other Act relating to the Customs, shall be seized by any Police Officer on suspicion that they had been stolen, it shall be lawful for such Officer to carry such goods to any Police Station or Court at which a complaint or information connected with the stealing or receiving of such goods, shall have been made, or enquiry connected with such stealing or receiving shall be in progress, and there to detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting. In every such case the Police Officer who seized the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law.

Penalty for neglect of Police Officer to give notice.

If any Police Officer, whose duty it is, under this Section, to send a written notice or cause goods to be conveyed to a Custom House, shall neglect so to do, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

CCVII. Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods provided that such Officer shall have reasonable ground to suppose that smuggled goods are contained therein.

Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

CCVIII. It shall be lawful for the Magistrate of a District, or Division of a District, on application by an Officer in charge of a Custom House, stating his belief that dutiable or prohibited goods are secreted in any place in such District or Division, to issue a warrant to search for such goods. Such warrant shall be executed in the same way, and shall have the same effect, as a search warrant issued under the Code of Criminal Procedure.

Magistrate of District may issue search warrant on application.

CCIX. Any Officer of Customs duly employed in the prevention of smuggling may search any person on Board of any vessel or boat in any Port in British India, or any person who shall have landed from any vessel or boat. Provided that such Officer shall have reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person. If any person on board of any such vessel or boat, or who may have landed from any such vessel or boat, shall, upon being asked by any such Officer whether he has dutiable or prohibited goods about his person or in his possession, affirm that he has not, and if any such goods shall, after such denial, be discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Persons may be searched on reasonable suspicion.

Penalty for possession of smuggled goods.

CCX. When any Officer of Customs is about to search any person under the provisions of the last preceding Section, such person may require the said Officer to take him, previous

Persons before search may require to be taken before a Magistrate, &c.

to search, before the nearest Magistrate or Officer in charge of a Custom House. If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Officer in charge of a Custom House. The Magistrate or Officer in charge of a Custom House before whom any person shall be so brought, shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made. A female shall not be searched by any but a female.

Penalty for searching persons on insufficient grounds.

CCXI. If any Officer of Customs shall require any person to be searched, for dutiable or prohibited goods, without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

Customs Officers, if guilty of breach of duty, how punishable.

CCXII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall be guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, such Officer or person shall on conviction before a Magistrate be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.

Customs Officers committing, or conniving at frauds, how punishable.

CCXIII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall practise or attempt to practise any fraud for the purpose of injuring the Customs Revenue, or shall abet or connive at any such fraud or any attempt to practise any such fraud, such Officer or other person shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding two years, or to fine, or to both.

No suit or proceeding to be commenced without notice or after stated interval.

CCXIV. No suit, action, or other proceeding shall be commenced against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action or other proceeding

and of the cause thereof, nor after the expiration of three months from the accrual of the cause of suit, action, or other proceeding.

Punishment for obstruction to Customs Officers.

CCXV. Whoever intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling in the exercise of any powers given under this Act to such Officer or person, shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand Rupees, or to both.

Penalty for making false declaration, refusing to answer questions, &c.

CCXVI. If any person shall knowingly make or sign any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular; or if any person shall counterfeit, falsify, or fraudulently alter or destroy any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs; or if any person required under this or any other Act relating to the Customs to produce any document shall refuse or neglect to produce such document; or if any person required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs shall not truly answer such question, such person shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand Rupees.

Penalty for un-authorized declaration to value of goods.

CCXVII. Any person subscribing or attesting any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee be liable in every such case to a penalty not exceeding one thousand Rupees.

Officer in charge of Custom House may adjudge confiscations and penalties.

CCXVIII. In every case in which, under this Act, any vessel, cart, or other means of conveyance, or any horse or other animal is liable to confiscation; or any goods are liable to confiscation or to increased rates of Duty; or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty, an Officer in charge of a Custom House may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of Duty.

Local Government may confer like powers on other Officers of Customs.

CCXIX. In respect to cases cognizable under the last preceding Section by an Officer in charge of a Custom House, the local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of Duty. Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to goods of a greater value than one hundred Rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector, to a sum exceeding fifty Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to a sum exceeding ten Rupees.

Proviso.

Appeal from subordinate to Chief Customs Authority.

CCXX. In any case adjudicated by an Officer of Customs, any party aggrieved by the award may appeal to the Chief Customs Authority of the Presidency or place, or to any superior Officer of Customs empowered in that behalf by the local Government. It shall thereupon be lawful for such authority or superior Officer to make such further enquiry, and to pass such order as he shall think proper, confirming, altering or annulling the original award. Provided that no such order in appeal shall have the effect of subjecting any person to any

greater confiscation, penalty, or rates of Duty than shall have been adjudged against him in the original award.

Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

CCXXI. The award of any confiscation, penalty, or increased rates of Duty under this Act by an Officer of Customs shall not interfere with any punishment to which the person affected thereby shall be liable under any other law.

Offences not specially provided for how to be adjudicated.

CCXXII. All offences against this Act, other than those cognizable under Section CCXVIII of this Act by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs Authority.

CCXXIII. If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act, by an Officer of Customs or by a Magistrate, the Chief Customs Authority of the Presidency or place shall be of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such Chief Customs Authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

How payment of penalty to be enforced.

CCXXIV. When a penalty is adjudged against any person under this Act by any Officer of Customs, it shall be lawful for such Officer, if the penalty be not paid, to levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs. When an Officer of Customs, who has adjudged a penalty against any person under this Act, shall fail to realize the unpaid amount of such penalty from the goods of such person, it shall be lawful for such Officer to notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to such person shall be, the name and residence of the said person and the amount of

penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

Periods of imprisonment in default of payment of penalty or fine to be fixed within certain limits.

CCXXV. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine :—

If the penalty or fine do not exceed fifty Rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months.

If the penalty or fine do not exceed five hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred Rupees, the term of imprisonment to be fixed in default of payment may extend to six months.

It shall be lawful for the Magistrate at any time to enforce payment of any penalty or fine, or of any portion thereof by distress and sale of the goods of the defaulter.

Imprisonment to terminate upon payment of the fine.

CCXXVI. The imprisonment which is imposed in default of payment of fine or penalty under this or any other Act relating to the Customs shall terminate whenever that fine or penalty is either paid or levied by process of law.

Or upon payment of proportional part of fine.

CCXXVII. If before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

On confiscation of vessel or goods, property to vest in Her Majesty.

CCXXVIII. When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods shall be adjudged under Section CCXVIII or Section CCXIX of this Act, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty. It shall be the duty of the Officer adjudging confiscation to take and hold possession of the same, and it shall be the duty of every Officer of Police, on the requisition of such Officer, to assist him in taking and holding such possession.

Appropriation of penalties, &c., and grant of rewards.

CCXXIX. The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a General Fund, out of which it shall be lawful for the Chief Customs Authority of the Presidency or place to grant a reward to any person by whose information, assistance, or instrumentality, any seizure shall have been made or any offence punished.

Commencement of Act.

CCXXX. This Act shall come into operation on the 1st day of May 1863.

A.

FORM OF APPLICATION FOR A LICENSE FOR PRIVATE WAREHOUSE.

(*See Section LXXIV.*)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

SIR,

PLEASE to comply with my request to be furnished with a license under Act VI of 1863

for a warehouse situated at and

about the distance of

from the Custom House. The dimensions and other parti-

culars of the godown are stated below. It is intended for the reception of all goods, as a general store-house—(*or as the case may be*).—The period of license not to exceed—(*mention the time for which required*).

Particulars of Godown.

	Feet—Inches	
Length		Dry, airy, well flued and puckah built; can contain with perfect safety and convenience tons of goods (—*as the case may be.*—)
Breadth		
Height		

This godown is my own property—(*or the property of ,—from whom I have engaged the same on a lease of*)

(*Signed*) ( )

Name of Applicant.

Place

Date

B.

FORM OF APPLICATION TO WAREHOUSE GOODS.

(*See Section LXXV.*)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

SIR,

PLEASE to order the reception into the public warehouse (*or the private warehouse,*—of Mr. A. B., situate at and licensed by No. dated) of the undermentioned goods, arrived from—(*Port or place to be mentioned*)—on the—(*British or other*)—ship whereof is Commander.

The Duty upon these goods has been adjusted in the manner specified below:—

Marks and numbers of packages.	Description of packages and goods.	Details of goods.	Rate of value of goods.	Amount of value of the goods as ascertained and entered on the landing of the same.	Rate of Customs Duty.	Date and No. of importation.	Specification of the particulars of bonds if the Duty upon goods has been bonded.
1.	2.	3.	4.	5.	6.	7.	8.

(*Signed*) ( )

Name of Owner, Agent, or Consignee of Goods.

Place

Date

C.

FORM OF BOND FOR IMPORT DUTY.

(*See Sections LXXVII and LXXVIII.*)

BOND

No. 18

We, A. B.,

now of

; and C. D,

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees

to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals (*date*)

(*Signed*)

The above bounden having applied to the Officer in charge of the Custom House at for and obtained permission to lodge in the warehouse for a period of the following goods, that is to say— imported by Sea from on board of the ship and entered in the Custom House Books as No. of the Register of Goods Imported by Sea;

The condition of this Bond is, that;

If the their heirs, or representatives, shall observe all the rules prescribed in Act No. VI of 1863 to be observed by owners, importers or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof;

And if the said their heirs, or representatives, shall pay to the Officer in charge of the Custom House at the Port of ll dues, whether of Customs, warehouse dues, or lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within from the date of this Bond, or within such further time as the Chief Customs Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Officer in charge of the Custom House;

And if, within the term so fixed, or enlarged, the said goods or any portion thereof having been removed from the said warehouse for home consumption or re-exportation by Sea, the full amount of all Customs Duties, warehouse dues, lawful charges and penalties demandable as aforesaid shall have been first paid on the whole of the said goods;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

Sealed with our seals, (*date*)

(*Signed*) ( )

D.

FORM OF APPLICATION TO REMOVE GOODS FROM WAREHOUSE.

(*See Section XCIX.*)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE AT

SIR,

PLEASE to order to be passed from the public warehouse (*or private warehouse,*—of Messrs. A. & Co. situate at and licensed under Act VI of 1863 by No. dated) the undermentioned goods intended for

exportation by Sea on the ship whereof is Commander and which is bound to —(*or for internal consumption*)—the same having been entered in the books of your Office for the said warehouse, under No. dated by me—(*or by Messrs. B. & Co.—in the latter case add*—whose certificate of the transfer of the goods is herewith annexed.)

Marks and No of cases B. and Co.,	Four cases of—(*name of goods*)—1 case,—(*box, bale, or parcel*)—containing—(*here insert the quantity in each case*),
(*Name of the goods*)	1 Ditto.
No 1 to 4.	1 Ditto.
□ × ✓	1 Ditto
Sealed	Four cases,—(*boxes, bales, or parcels*)—containing—(*total contents to be here stated*)
Warehoused for exportation	

The Custom House value of the above is Government Rupees

(*Signed*) ( )

Name of Owner, Agent, or Consignee of goods.

Place

Date

E.

FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(*See Section CV.*).

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

SIR,

PLEASE to permit the removal of the undermentioned goods from the public—(*or private*)—warehouse—(*describe the warehouse*)—to—*the warehouse into which the removal is intended to be made must here be distinctly described*)—for the unexpired period of warehousing remaining

in respect to the goods, the same having been originally entered by virtue of Act VI of 1863 in the books of the warehousing department, No. dated for fifteen months—(*or such other period as may have been allowed*)—under the obligations and conditions at present attached to the goods.

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages	Rate of value of goods.	Amount of value of goods as entered in Custom House books.	Rate of Duty chargeable or paid upon the goods.	Name of the persons by whom goods first passed into warehouse.
1.	2	3	4	5.	6	7.

NOTE.—*If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application*

(*Signed*) ( )

Name of Owner, Agent, or Consignee of goods.

Place

Date

F.

FORM OF SHIPPING BILL—(*See Section CXXIII.*)

Shipping Bill
1. Warehouse or drawback goods.
2. Foreign goods not for drawback.
3. Goods exported under special rule of restriction.
4. Country goods subject to Duty.
5. Country goods not subject to Duty.

(*State, as described the class to which the goods to be exported belong.*)

Ship's name.	Whether British or Foreign; if Foreign, the Country.	Master's name.	Port or place of destination.	Marks.	Numbers.	Description of Packages.	Quantity, Quality, and Description of goods.	Rate of value for duty.	Total value for duty.	Declared real value under Section XXVI.	REMARKS.
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.

Here state particulars according to the above headings.

I claim drawback on

Here state quantity and description in words, at length, of any goods in respect of which drawback is claimed, and number in register of Custom House.

I declare the value of the goods above described to be

( )

Name of Exporter or Agent.

Dated *day of*

( )

Name of Officer in charge of Custom House.

G.

FORM OF COASTING PASS —(*See Section CLIV.*)

Port of

Ship's name.	Tonnage.	Port of Registry.	Master's name.	Whither bound.	Foreign goods, duty paid.	Warehoused goods removed in bond.	Country goods.	Restricted goods and goods liable to duty of excise
1.	2.	3.	4.	5.	6.	7.	8.	9.

☞ *Here state the particulars according to the above Headings.*

Cleared the *day of* 18

(*Signed*) ( )

Officer in charge of Custom House.

(*Signed*) ( )

Name of Master.

H.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See Section CLXIII.*)

We

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government Rupees

to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives; and we agree that in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals, dated this day of 18

(*Signed*) ( )

The above bounden being indebted to Her Majesty's Secretary of State for India in the sum of Government Rupees being the amount of Duty payable at the rate of Rupees per Imperial gallon London proof, for gallons of *or for gallons of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed Schedule*)— manufactured at which the said have been allowed to remove thence for exportation by Sea, subject to the provisions of Act VI of 1863 without having paid such Duty.

The condition of this obligation is, that, if the above bounden

their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State Duty at the rate of

Rupee per Imperial gallon of proof spirits for all or any portion of the above-mentioned,

which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exportation, if any, due

proof shall be given) or passed for local consumption on payment of Duty, then this Bond shall be void; otherwise the same shall remain in full force.

Sealed and delivered in the presence of

Place

Date

(If the bond be for cordials and other liquors under Section CLXX, add

Schedule.

Description of cordials and liquors.	Quantity in bottles or gallons.	Quantity of proof spirit.
1.	2	3.

EMIGRATION TO ST. CROIX.

ACT No. VII OF 1863.

(*Received the assent of the G. G. on the 4th February* 1863.)

Recites expediency of extending Act XXXI. 1855, to emigration to St Croix.

1. Repeals Act XIV. 1839, so far as it applies to emigration to Saint Croix from presidency ports.

2. Extends Act XXXI. 1855; and Act XLIX. 1860, to emigration to St. Croix.

3. Act to take effect from date of notification in the Gazette.

4. Extends Act XIX. 1856, to emigration to St. Croix.

An Act relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix.

Preamble.

WHEREAS it is expedient to render lawful the emigration of laborers, being Native inhabitants of British India, to the Danish Colony of Saint Croix, and to extend the provisions of Act XXXI of 1855 (*relating to the emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada*) to the emigration of Native Inhabitants of British India who may emigrate to Saint Croix; It is enacted as follows :—

Act repealed

I. Act XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the Danish Colony of Saint Croix, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed.

Act XXXI of 1855 extended.

II. All the provisions of Act XXXI of 1855, and of the Schedule thereto as modified by Act XLIX of 1860 (*relating to Vessels carrying emigrant Passengers to the British Colonies*) shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to the Danish Colony of Saint Croix, and that Act shall be read as if the words "or the Danish Colony of Saint Croix" had been inserted therein

after the words "Saint Lucia and Grenada," or "Saint Lucia or Grenada," wherever those words occur in the said Act.

Commencement of Act.

III. This Act shall take effect as to the said Colony of Saint Croix from the day when the Governor-General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided and such measures taken as the Governor-General in Council deems necessary for the protection of such emigrants during their residence in the said Colony of Saint Croix and in respect of their return to India.

Act XIX of 1856 to apply to Emigration to St. Croix.

IV. All the provisions of Act XIX of 1856 (*to enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers*) shall apply to Emigration to the said Colony of Saint Croix.

CONVICTS OF COURTS IN NATIVE STATES.

ACT No. VIII OF 1863.

(*Received the assent of the G. G. on the* 23*rd February* 1863.)

Recites expediency of amending the law relating to the confinement of prisoners tried by British Courts in Native States, and to make provision for safe custody of prisoners convicted of suttee and sumadh in Native States.

1. Repeals Bombay Reg. IX. 1833; Act XVIII. 1843; and Act V. 1847.

2—3. Empowers officers in charge of jails to give effect to sentences passed by courts in non-regulation ports; (3), under warrant from such courts but not to apply to jails in presidency towns.

4. Authorizes the execution in British territory of prisoners convicted in Native States &c., of offence of thuggee, dacoity, &c., suttee, sumadh, or other offences specified in proclamation, &c.

5. Officer in charge of jail, if in doubt as to legality of warrant, may refer the matter to Government.

6. General prison regulations to apply to prisoners under this Act.

An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the au-

thority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.

Preamble.

WHEREAS it is desirable to amend the law relating to the confinement of prisoners who have been sentenced by Courts acting under the authority of Her Majesty, or of the Government of India, or of any local Government; and whereas it is expedient to make the same provision for the secure custody of persons convicted of participation in the offence of Suttee (burning alive) or Sumadh (burying alive) and of such other offences as the Governor-General in Council shall from time to time, by an order to be published in the Government Gazette, think fit to prescribe, within the Territories of Native Princes or States in alliance with Her Majesty as is already made in regard to persons convicted of Thuggee or Dacoity in such States; It is enacted as follows :—

Repeal of Regulation and Acts.

I. Regulation IX of 1833 of the Bombay Code (*to provide for the reception in the Jails under that Presidency of prisoners sentenced by Courts of Justice or Tribunals acting under British Superintendence other than those provided for in the existing Regulations*), Act XVIII of 1843 (*for the better custody of persons convicted of Thuggee and Dacoity*), and Act V of 1847 (*to facilitate the execution of the sentences of Courts established by the authority of the Governor-General in Council for the administration of Criminal Justice in States or Territories administered by Officers acting under the authority of the East India Company*) are hereby repealed.

Officers in charge of Jails may give effect to sentences passed by certain Courts.

II. Officers in charge of Jails within the British Territories in India shall be competent to give effect to any sentence which shall be passed by any Court or Tribunal acting under the authority of Her Majesty, or of the Government of India, or of any local Government, although such Court be not situate in a place not subject to the general Regulations.

Proviso.

Provided that this Section shall not apply to any Officer in charge of any Jail or House

of Correction within the local limits of the ordinary original Civil Jurisdiction of any Court established by Royal Charter.

Warrant of Officer of such Court to be sufficient authority.

III. A warrant under the official signature of an Officer of the Court or Tribunal as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Executive Government may authorize reception, detention, or imprisonment in British India of persons convicted of certain offences in Native States.

IV. It shall be lawful for the Executive Government of any part of the British Territories in India to authorize the reception, detention, or imprisonment in any part of those Territories, for the periods specified in their respective sentences, of persons sentenced within the Territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for the offence of Thuggee or Dacoity, or the offence of belonging to any gang of Thugs or Dacoits, or for participation in the offence of Suttee or Sumadh, or for such other offences as the Governor-General in Council shall from time to time, by an order published in the Government Gazette, think fit to prescribe. Provided always that such sentences shall have been pronounced after trial before a Tribunal in which an Officer of Government, duly authorized in that behalf by such Prince or State, shall be one of the presiding Judges. Every Officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation may be carried into effect.

Proviso.

Procedure of Officer in charge of Jail if he doubt the legality of any warrant sent to him for execution.

V. If any Officer in charge of a Jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto to pass the sentence and issue such warrant, such

Officer shall refer the matter to the Government to which he is subject, by whose order on the case such Officer and all other public Officers shall be guided as to the future disposal of the prisoner. Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

Provisions of existing Acts, &c., relating to the treatment and security of prisoners generally, to apply to prisoners confined under this Act.

VI. The provisions of the existing Acts and Regulations, and all other rules in force for the treatment and security of prisoners confined in the said Jails, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act as in the case of other prisoners confined therein.

CODE OF CIVIL PROCEDURE.

ACT No. IX OF 1863.

(*Received the assent of the G. G. on the* 23*rd February* 1863.)

Recites the necessity of amending Act VIII. 1859, Section 386.

1—2. Vests in one judge the powers vested in two by this Section, when the highest court in non-regulation parts, consists of only one judge; and (2) gives validity to acts of one judge in such cases before Act passed.

An Act to amend the Code of Civil Procedure.

Preamble.

WHEREAS the Code of Civil Procedure requires that appeals from decisions or orders to the Sudder Court shall ordinarily be heard and determined by two or more Judges of the said Court; and whereas in the Territories, not subject to the general Regulations, the highest Civil Courts of Appeal, which are declared by Section 386 of Act VIII of 1859 to be included in the expression "Sudder Court" in any part of the said Territories to which the said Code may be extended, generally consist of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing appeals from decisions and orders, or in proceedings relating to any other matter which may be brought before him; It is enacted as follows:—

In certain places the highest Civil Court of Appeal to have powers of Sudder Court.

I. When in any part of the British Territories in India to which the Code of Civil Procedure has been or shall be extended under the provisions of Section 385 of the said Code, the highest Civil Court of Appeal consists of a single Judge, such Judge shall have all the powers vested by such Code in two or more Judges of the Sudder Court.

No order or proceeding of such Court to be void because passed or held by a single Judge.

II. No order passed by or proceeding held before the single Judge of any such highest Civil Court of Appeal, subsequent to the extension of the Code of Civil Procedure to such part of the British Territories in India, shall be deemed invalid, or be liable to be questioned on the ground that such order or proceeding was passed by or held before a single Judge.

ADMINISTRATION OF JUSTICE, DARJEELING.

ACT No. X OF 1863.

(*Received the assent of the G. G. on the 23rd February* 1863.)

Recites expediency of improving administration of justice in Darjeeling.

1—6. Gives the Superintendent, &c., same immunity from appeal as Small Cause Courts under Act XLII. 1860; but new trial may be granted, &c.; and (2) authorizes them to state case on certain points for opinion of High Court; (4) to be decided by two Judges; (5) at an early day; (6) at the hearing parties may appear; (3) but Court may proceed nevertheless with suit, but execution not to issue.

7—8. High Court to transmit copy of its judgment, &c., to the Superintendent, &c., who shall proceed according to the judgment; and (8) High Court costs to be costs in the suit.

9—11. Gives a regular appeal in suits not exceeding 5,000 Rs., to the Judge of Dinagepore; and (10) a special appeal from him to the High Court in specified cases; and (11) a regular appeal to High Court in suits exceeding 5,000 Rs.

12—14. Commitments for Court of Sessions to be made to Sessions Judge of Dinagepore; and (13) criminal appeals from Darjeeling Judge to Judge of Dinagepore; and (14) High Court to have same jurisdiction over his proceedings as in other cases.

An Act to improve the Administration of Justice in the District of Darjeeling.

Preamble.

WHEREAS it is expedient to improve the Administration of Justice in the District of Darjeeling; It is enacted as follows:—

No appeal from decisions in suits of the nature cognizable in Small Cause Courts, under Act XLII of 1860.

I. Every decision or order passed by the Superintendent of the District of Darjeeling in suits of the nature cognizable in Courts of Small Causes under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), or by the Judge of any Court constituted in the said District under the said Act shall be final, and no appeal shall lie from such decision or order. Provided that it shall be competent to the Superintendent, or Judge of any such Court as aforesaid, if he shall think fit, to grant a new trial, if applied for within the period of thirty days from the date of the decision; but no new trial shall be granted unless the party applying for the same shall, with his application, deposit the amount for which judgment shall have been given against him, including the costs (if any) of the opposite party.

Proviso.

In case of doubt as to question of Law, &c., statement of case may be submitted for decision of High Court.

II. If in the trial of any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision shall arise on which the Superintendent or Judge of any Court constituted as aforesaid shall entertain reasonable doubt, the Superintendent or Judge as aforesaid may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it with his own opinion for the decision of the High Court.

And decree may be passed contingent thereon, but pending receipt, execution not to issue.

III. The Superintendent or Judge as aforesaid may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court until the receipt of the order of that Court.

Full bench of the High Court to decide cases referred under this Act.

IV. Cases referred for the opinion of the High Court shall be dealt with by two or more Judges of that Court.

High Court to fix an early day for the hearing of the case.

Proclamation thereof.

V. The High Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court House of that Court.

Parties may appear and be heard in person or by pleader.

VI. The parties to the case may appear and be heard in the High Court in person or by pleader.

Decision of High Court how to be transmitted.

VII. The High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the Register, to the Superintendent or Judge as aforesaid, and the Superintendent or Judge as aforesaid shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court shall be costs in the suit.

In suits other than those referred to in Section I, and of an amount or value not exceeding 5,000 Rupees, a regular appeal to lie.

IX. In all suits other than those mentioned in Section I of this Act, in which the amount or value of the suit shall not exceed Rupees five thousand, an appeal from the decision of the Superintendent, or of any other Court which is or hereafter may be established in the said District of Darjeeling shall lie to the Judge of Dinagepore, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

Special appeal to High Court in certain cases.

X. A special appeal shall lie to the High Court of Judicature at Fort William from all decisions passed in regular appeal by such Judge, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and upon no other ground, and such special appeal shall be subject to the rules contained in the Code of Civil Procedure regarding special appeals.

In suits above 5,000 Rupees, regular appeal to lie to High Court.

XI. In all suits heard and determined by the Superintendent, or by any other Court which is or hereafter may be established in the said District of Darjeeling in which the amount or value of the suit shall exceed Rupees five thousand, an appeal shall lie to the said High Court, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

Provision for cases triable by Court of Sessions under Code of Criminal Procedure.

XII. When a commitment in a case triable under the Code of Criminal Procedure by a Court of Sessions is made by the said Superintendent, or by any other Officer in such District competent to make commitments to the Court of Sessions, such commitment shall be made to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Appeals from sentences, &c., of Superintendent and his subordinates.

XIII. Appeals from sentences and orders passed by the said Superintendent or by any Officer subordinate to him from which an appeal is allowed under the Code of Criminal Procedure shall lie to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Powers of High Court in respect of sentence, &c., of Sessions Judge under this Act.

XIV. The High Court of Judicature at Fort William in Bengal shall exercise the same jurisdiction, appellate or otherwise, in respect of any sentence or order passed by such Sessions Judge under this Act, which the said High Court may exercise in respect of any other sentence or order passed by such Judge.

PROCESS-SERVING PEONS.—NORTH-WESTERN PROVINCES.

ACT No. XI OF 1863.

(*Received the assent of the G. G. on the 25th February* 1863.)

Recites expediency of consolidating the law relating to the remuneration and employment of Court peons.

1. Repeals as to the North-Western Provinces Bengal Reg. XXVI. 1814, Section 14; Reg. VII. 1832, Section 5.

2—6. Subject to the approval of the Sudder Court the Zillah Judges are to fix the number of peons for their Courts, and the subordinate Courts, and Small Cause Court Judges to do the same for their Courts; and (3) the Nazir to appoint them; and (4) none but such peons to be employed except by leave of the Court; and (5) Court peons to be distinguished by plate and belt; and (6) be remunerated either by salaries or fees to be fixed by Government.

7. Salaries for peons to be paid out of fee fund, and surplus applied to the improvement of the administration of justice, &c.

8. Directs an account to be kept, and returns made, of fee fund.

9. All process under this Act to be deemed process within Act VIII. 1859, Section 188, and Act XXIII. 1861, Section 2.

10. Authorizes the Sudder Court to make rules for fixing costs of service and process, &c.

11. Empowers the G. G. in C. and Lieut.-Governor of Punjab to extend this Act to any territories under their respective Governments.

12—13. Interprets the term "Judge;" and (13) the term "Sudder Court."

An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal and in other parts of the British Territories in India, to which this Act shall be extended as hereinafter provided; It is enacted as follows:—

Laws repealed.

I. From and after the passing of this Act, Section XIV of Regulation XXVI. 1814 of the Bengal Code (*for modifying some of the Rules at present in force regarding the admission and trial of special and summary appeals from decisions passed in regular suits; for limiting and altering some of the existing provisions respecting the pleadings and processes, and the mode of executing decrees and regular suits and appeals; and for explaining and making certain additions to the provisions of Regulation I.* 1814), Section V of Regulation VII. 1832 of the said Code (*for modifying certain of the provisions of Regulation V.* 1831 *and for providing supplementary Rules to that enactment*), and Act XIV of 1845 (*to provide for the appointment of Nazirs*

in the Moonsiff's Courts), shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal.

Number of Peons for each Court by whom to be fixed.

II. Subject to the approval of the Sudder Court the Judges of the several Zillah Courts in the said North-Western Provinces shall fix the number of Peons necessary to be employed in the said Zillah Courts and in the several Courts subordinate to them for the service and execution of processes issued out of such Courts, respectively, and the Judges of the Courts of Small Causes in the said Provinces shall in like manner fix the number of Peons necessary to be employed in the said Small Cause Courts for the service and execution of processes issued out of such Courts. Subject to the like approval the said Judges may from time to time alter the number of Peons to be so employed.

Appointment and registration of Peons.

III. The appointment of Peons in the several Courts mentioned in the last preceding Section shall be made, subject to the approval of the Judge of the Court, by the Nazir of the Court in which the Peons are employed, or by the Clerk of the Court where there is such an Officer; and every such appointment shall be registered in the Court with the following particulars; the name of the Peon, his age, his place of abode, his father's name, and date of appointment.

No other persons to be employed as Peons without special leave of Court.

IV. No person who shall not be appointed and registered as a Peon in the manner hereinbefore provided shall be employed in the service or execution of the process of any Court without the special leave of such Court.

Peons to be furnished with belt and plate.

V. The Peons who are appointed and registered in the manner above prescribed, shall be furnished at the expense of the State with a uniform belt and plate, on which shall be inscribed the Court to

which the Peon belongs and the number of the Peon in the Register.

Remuneration of Peons.

VI. The Peons appointed and registered under this Act shall either receive fixed salaries, or be remunerated by fees for the service of the processes served or executed by them, as the local Government shall direct. The amount of salary shall be fixed by the local Government.

Disposal of sums paid under Act for execution of process.

VII. When the Peons appointed under this Act are remunerated by a fixed salary, the money paid under this Act for the service or execution of processes shall be carried to the credit of Government, and shall be formed into a fund out of which the salaries of such Peons shall be paid. Any surplus that may accrue from such fund, after paying the salaries of the Peons, shall be at the disposal of the local Government, and may be applied by such Government, subject to the approval of the Governor-General in Council, to the improvement of the administration of Civil Justice in the North-Western Provinces.

Account of moneys received into and paid out of Court.

VIII. A regular account of all moneys received into and paid out of Court under this Act shall be kept, and extracts from this account shall be forwarded to the local Government at such times, and in such form as such Government shall direct.

Construction of process.

IX. Every process served or executed under this Act shall be held to be a process within the meaning of Section 188 of the Code of Civil Procedure and Section 2 of Act XXIII of 1861 *(to amend Act VIII of 1859 for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)*.

Sudder Court to make rules for fixing cost of serving process, remuneration of peons, &c.

X. The Sudder Court shall make rules prescribing the cost of serving and executing processes issued by the said Court, and by the Courts subordinate to such Court, as well as by the Courts of Small Causes, established

within the local limits of the jurisdiction of such Sudder Court, and for levying the same, and also rules for the remuneration of the Peons appointed and registered under this Act who are not paid by fixed salaries, and of all other persons who may be employed in the service or execution of processes by leave of a Court under the 4th Section of this Act, and also such other rules as the Sudder Court shall deem necessary, and shall not be inconsistent with the provisions of this Act for carrying out the provisions of this Act. The rules made under this Section, after being confirmed by the local Government, shall have the force of law. Subject to the same confirmation the Sudder Court may from time to time vary the rules made under the authority of this Section. The rules made and confirmed under this Section, and a table af costs for serving and executing processes, shall be exposed to public view in every Court for which Peons are appointed and registered under this Act.

Powers of Governor-General and of Lieutenant-Governor, Punjab, to extend Act.

XI. The Governor-General of India in Council shall have power by an order to be published in the Calcutta Gazette to extend the provisions of this Act to any part of the Territories under the immediate administration of the Governor-General in Council; and the Lieutenant-Governor of the Punjab shall have power by an order to be published in the Official Gazette to extend the provisions of this Act to any part of the Territory under his Government.

Interpretation of "Judge."

XII. The term "Judge" in this Act shall denote the Presiding Judicial Officer in every Court of Civil Judicature by whatever title he shall be designated. And in any place not subject to the General Regulations to which the provisions of this Act extend, or shall hereafter be extended as provided in the last preceding Section, the Judges of the Principal Courts of original Civil Jurisdiction in such place shall be the Judges to fix the number of Peons necessary to be employed in such Courts, and in any Courts subordinate to such Courts, as

provided in Section II of this Act, and subject to the approval therein mentioned.

Interpretation of "Sudder Court" in places to which Act shall be extended.

XIII. When this Act shall be extended to any place under Section XI of this Act the term "Sudder Court" as used in this Act shall be taken to mean the highest Civil Court of Appeal established in the place to which this Act shall be so extended.

MAHOBA AND JEITPORE, IN HUMEERPORE, BUNDLEKUND.

ACT No. XII OF 1863.

(*Received the assent of the G. G. on the* 25*th February* 1863.)

Recites expediency of bringing Mahoba and Jeitpore under the same Regulations as the rest of the District.

1—5. Places those Pergunnahs under the same Regulations, &c., as the rest of the District; save (2) as to pending, and (3) remanded proceedings; and (4 and 5) as to pending appeals.

6. Act to take effect from time fixed in Gazette.

An Act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.

Preamble.

WHEREAS the District of Humeerpore in Bundlekund is, with the exception of the Pergunnahs of Mahoba and Jeitpore, subject to the General Regulations; and whereas it is expedient that the said Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the District; It is enacted as follows:—

Laws and Regulations for internal administration of Humeerpore to have full force in Mahoba and Jeitpore, &c.

I. The laws and regulations established for the internal administration of the District of Humeerpore shall have full force and effect in the Pergunnahs of Mahoba and Jeitpore, and the administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Pergunnahs, are hereby vested in the Officers who are, or may hereafter be, appointed by the Lieutenant-

Governor of the North-Western Provinces for the said District of Humeerpore.

Saving as to suits pending at the time of passing of this Act.

II. All suits and proceedings arising in the said Pergunnahs which, at the time of the passing of this Act, shall be pending in any Court, or before any Officer, shall be heard and determined in the same manner as if the said Pergunnahs had not been brought under the operation of the General Regulations.

Suits remanded by any Appellate Court.

III. Any suit which, before the passing of this Act, had been determined and which has been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Appeals pending in Jhansie Commissioner's Court, and execution of decrees.

IV. All appeals or proceedings now pending in the Court of the Commissioner of Jhansie shall be determined by such Commissioner in the same manner as if this Act had not been passed; and all applications for execution of decrees or orders which, but for the passing of this Act, would have been made to any Court or Officer existing at the time of the passing of this Act shall be made to the Court or Officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

Appeals from decrees or orders passed before passing of Act

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard and determined by the Court or Officer who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

Commencement of Act.

VI. This Act shall take effect from such date as the Lieutenant-Governor of the North-Western Provinces shall fix by an order to be published in the Official Gazette.

PRISONERS AND HOUSE OF CORRECTION.—BOMBAY.

ACT No. XIII OF 1863.

(*Received the assent of the G. G. on the 25th February* 1863.)

Recites the want of sufficient prison room for convicts in Bombay.

1.—2. Authorizes the Judges to sentence to rigorous imprisonment, either in the house of correction, whether it be under the control of the Sheriff or not, or in the common jail; also (2) as the place of intermediate custody when sentence is to transportation or penal servitude.

3 Gives the same power to Magistrate on commitments for trial.

An Act to empower Judges of the High Court and other Authorities at Bombay to direct Convicts to be imprisoned either in the House of Correction or the Common Jail.

Preamble.

WHEREAS great inconvenience is occasioned in the administration of Criminal Justice by reason of the House of Correction in the Town of Bombay not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences; and it is desirable that the Judges of Her Majesty's High Court at Bombay, and the Justices of the Peace and Magistrates of Police in the Town and Island of Bombay should be empowered to send prisoners to the Common Jail in the Town of Bombay, as well as to the House of Correction; It is enacted as follows:—

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in House of Correction or Common Jail in Bombay.

1. Whenever, from and after the passing of this Act, any person shall be sentenced by Her Majesty's High Court of Judicature at Bombay to rigorous imprisonment, or to imprisonment with hard labor or solitary confinement, it shall be lawful for the Judges or Judge of the said Court of Judicature to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as to them or him shall seem fit.

II. Whenever, from and after the passing of this Act, any person shall be sentenced by the High Court at Bombay to transportation, or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as the place of intermediate custody.

Where also persons sentenced by the said Court to transportation, &c., may be kept.

III. Whenever, from and after the passing of this Act, any person shall be sentenced by a Justice of the Peace or Magistrate of Police in the Town and Island of Bombay to rigorous imprisonment, or imprisonment with hard labor, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the Common Jail in Bombay, as to such Justice of the Peace or Magistrate shall seem fit.

Where also persons sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, &c., may be committed.

RENT ACT.—NORTH-WESTERN PROVINCES.

ACT No. XIV OF 1863.

(*Received the assent of the G. G. on the* 10*th March* 1863.)

Recites expediency of amending Act X. 1859, as respects the North-Western Provinces.

2. Adds to suits specified in Act X. 1859, Sections 23 and 24, suits by certain lumberdars, &c., by certain co-sharers, &c., and by certain maafeedars, &c., and by certain talookdars; and (2) limits the time for bringing such suits.

3. Adds to grounds specified in Act X. 1859, Section 18, other grounds for claiming an abatement of rent.

4. Adds specified words to Act X. 1859, Section 23, Clause 2.

5. Repeals, as to North-Western Provinces, Act X. 1859, Sections 34 and 86, and substitutes new Sections for them, numbered 34 and 86.

6. Applies Act VIII. 1859, Sections 243 and 244, to suits under Act X. 1859, or this Act in which a Collector awards money to Government.

7. Amends Act X. 1859, Section 112, by adding words of qualification.

8—12. Empowers Government to invest specified settlement officers with the powers of Collector within certain local limits; and (9) defines what matters shall

be within his cognizance; and (10) lays down a rule as to suits for enhancement of rent; and (11) as to suits by and against ryots collectively; and (12) gives same appeal against decisions of such officer as against Collectors; and (13) except on the ground of want of jurisdiction in suits entertained by such officers before this Act.

13. Authorizes settlement officers to commute rents paid in kind to money rents on application either of rents-payer or receiver.

14. Extends Act VIII. 1859, Chapter 6 (on Arbitration) to suits under Act X. 1859.

15. Empowers local Government to appoint proprietor, &c., to be lumberdar for collection of water rate, &c., with commission, and legal powers for enforcement of rate.

16. Persons arrested under Act X. 1859, Section 145, to be brought before Collector with all convenient speed for trial, who may take security, &c.

17. Declares that decisions of Zillah Judges under Act X. 1859, are open to special appeal.

18. This Act to be read as part of Act X. 1859, wherever it is in force.

19. Empowers G. G. in C., the Lieut.-Governor of North-Western Provinces and Punjab to extend this Act to territories under their respective Governments.

An Act to amend Act X of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal.)

Preamble.

WHEREAS it is expedient to amend Act X of 1859 (*to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal*) so far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal, and to authorize the extension of the Act to places to which its provisions do not now apply; It is enacted as follows:—

Suits cognizable by Collectors in addition to those specified in Sections XXIII and XXIV of Act X. 1859.

I. In addition to the suits specified in Sections XXIII and XXIV of Act X of 1859, the following suits shall be cognizable by the Collectors of Land Revenue under the provisions of the said Act, and, except in the way of appeal as provided in the said Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner, (that is to say):—

1*st*. Suits by Lumberdars for arrears of Government Revenue payable through them by the co-sharers whom they represent.

2nd. Suits by co-sharers for their share of the profits of an estate or any part thereof after payment of the Government Revenue and village expenses, or for a settlement of accounts.

3rd. Suits by Maafeedars or assignees of Government Revenue for arrears of Revenue owing to them as such Maafeedars or assignees.

4th. Suits by Talookdars and other superior proprietors for arrears of Revenue or otherwise (not being rent claimable under Section XXIII of the said Act X of 1859) due to them as such Talookdars or other superior proprietors.

Limitation of suits under preceding Section.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear or the amount of profits claimed shall have become due, or if the suit be for an arrear, or for profits due at the time of the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year to which the accounts relate, or in the case of any claim for such settlement now existing, within one year from the time of the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

Additional ground for claim to abatement of rent.

III. In addition to the grounds mentioned in Section XVIII of the said Act X of 1859, upon which a ryot, having a right of occupancy, can claim an abatement of the rent previously paid by him, every such ryot may claim abatement on the ground that the rate of rent paid by him is above the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages, in the places adjacent.

Addition to Clause 2, Section XXIII of Act X of 1859.

IV. Clause 2 of Section XXIII of the said Act X of 1859 shall be read as if the words "or by any other means not warranted by law" were added thereto.

Repeal and re-enactment of Sections XXXIV and LXXXVI of Act X of 1859.

V. From the date of the passing of this Act, Sections XXXIV and LXXXVI of the said Act X of 1859 shall cease to have effect in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and shall not come into force in any place to which this Act shall be extended as hereinafter provided, and the following Sections are enacted in lieu thereof:—

Procedure in the institution of suits under this Act.

"Section XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and the date of the cause of action."

Issue of process of execution.

"Section LXXXVI. Process of execution may be issued against either the person or the property of a judgment debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment creditor, his agent, or mookhtar, made at the time the decree is passed, or thereafter upon the written application of the judgment creditor, his agent, or mookhtar. Process of execution against the person or moveable property of a debtor shall be in form E or F contained in the Schedule to the said Act X of 1859, or to the like effect."

Certain provisions of Civil Procedure Code applicable to decrees in rent suits.

VI. The provisions of Sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government Revenue, or of profits, or otherwise.

Revision and Appeal.

Orders passed by a Collector under either of the said Sections shall be

subject to revision by the Commissioner of the Division, and the Sudder Board of Revenue, but shall not be open to appeal to the Civil Court.

Addition to Section CXII of Act X of 1859.

VII. Section CXII of the said Act X of 1859 shall be read as if the words " or where the rent of a puttee is not collected by a lumberdar, through the putteedar who is entitled to collect the rent" were added at the end of such Section.

Local Government may invest Settlement Officers with certain powers.

VIII. The local Government may invest any Officer employed in making or revising settlements of the Land Revenue, with the powers of a Collector as described in the said Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such Officer, of the nature mentioned in Section XXIII of the said Act, or in this Act while such Officer is so employed.

Matters cognizable by such Settlement Officers.

IX. In the exercise of the powers given under the last preceding Section, the Officer so invested shall have power to determine all disputes existing between Zemindars, Talookdars, or other Sudder Malgoozars, or Farmers of land, or any person duly authorized on their behalf, and any dependent Zemindar, ryot, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent Zemindar, under-tenant, ryot, or other tenant.

Rule as to suits for enhancement of rent.

X. If a suit for enhancement of rent be brought before any Officer empowered under Section VIII of this Act to hear the same, such suit shall be heard and determined by such Officer notwithstanding that no notice of enhancement shall have been served under Section XIII of the said Act X of 1859 on the party from whom such enhanced rent is claimed. In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed. If a decree be passed in favor of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the decree.

Provision for suits by or against ryots collectively.

XI. Whenever a claim to enhancement or abatement of rent against or by any number of ryots is brought before an Officer engaged in making or revising settlements, and empowered under Section VIII of this Act to hear such claim, such ryots may be sued or may sue collectively, and it shall be no ground for dismissing or refusing to hear the claim that such ryots are wrongly joined as plaintiffs or defendants, provided all such ryots cultivate in the same Estate, but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such Officer as aforesaid shall be satisfied that every ryot has had an opportunity to appear and make objection to the claim preferred against him. Provided also that every decree passed in any such case shall specify the extent to which each of the ryots named in the decree shall be affected thereby.

Decisions liable to appeal.

Proviso as to former decisions.

XII. All decisions passed under the foregoing Sections by an Officer engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the said Act X of 1859 in respect to decisions passed by a Collector in suits of the same description. Provided that no decree passed in any such suit by an Officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of Jurisdiction in the Officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decree in like manner as if the suit had been decided under this Act.

Commutation of rents in kind to fixed money payments.

XIII. In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an Officer employed in making or revising the settlement of the Land Revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money payment. The rate or amount of

rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X of 1859. All decisions already passed by any such Officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X of 1859 in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

Arbitration Chapter of Civil Procedure Code made applicable.

XIV. The provisions of Chapter VI (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X of 1859, and under this Act.

Provision for collection of water rate.

XV. In any District through which any canal passes, in respect of which any water rate is payable to Government, it shall be lawful for the local Government to appoint any proprietor or farmer of an estate through which such canal passes in such District, with the consent of such proprietor or farmer, to be a lumberdar for the collection of such water rate in such estate, and thereupon the amount annually payable on account of such water rate by the dependent Zemindars, ryots, and other under-tenants in such estate shall (subject to such abatement on account of commission or otherwise as shall be allowed by the local Government to such lumberdar), be held to be a charge on the estate of such proprietor or farmer, and shall be added to the assessment payable to Government in respect of such estate, and the amount thereof shall be recoverable in like manner as the assessment on such estate, and for the purpose of collecting such water rate from the dependent Zemindars, ryots, and other tenants in such estate liable thereto, such lumberdar shall have the like powers and shall be subject to the same rules as are provided in any law for the time being in force in respect of the collection of the rent of land.

Rule as to person arrested under Section CXLV of Act X of 1859.

XVI. If any person shall be arrested under Section CXLV of the said Act X of 1859, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case. If the case cannot be at

once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Jail until the case is tried.

Special appeal from decisions of Zillah Judge under Act X of 1859.

XVII. Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under the said Act X of 1859 are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

Construction of Act.

XVIII. This Act shall be read and taken, in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following Section, as part of the said Act X of 1859.

Power to extend the Act.

XIX. It shall be lawful for the Governor-General of India in Council to extend the provisions of Act X of 1859 as amended by this Act to any Territories immediately administered by the Government of India, or for the Lieutenant-Governor of the North-Western Provinces, and of the Punjab, respectively, to extend the said Act amended as above to any part of the Territories under their respective Governments, in which the said Act X of 1859 is not now in force. Whenever the said Act amended as above shall be so extended, the Governor-General of India in Council or the Lieutenant-Governor, who shall so extend the same, shall declare by what Officers in the said Territories or any parts thereof, to which the said Act X of 1859 amended as above shall be extended, the powers given by the said Act shall be exercised, and such Officers shall thereupon be authorized to exercise such powers.

MERCHANT SEAMEN.

ACT No. XV OF 1863.

(*Received the assent of the G. G. on the* 10*th March* 1863.)

Recites expediency of amending Act I. 1859.

1. Repeals Act I. 1859, Sections 17, 21, 81, 82, and Act XXVIII. 1861.

2. Enacts that Act I. 1859, Sections 9 to 16, shall not apply to ships registered under Act X. 1841, &c., when navigated exclusively by Asiatics, &c., or to ships of less than 200 tons and trading between Straits Settlements.

3. Prescribes rules, &c., for agreements with Native Seamen, except ships only in home trade not exceeding 300 tons, and saves engagements for single Seaman for British or Colonial ships; and provides for Native Seamen whose engagements end at any out-port in India.

4—5. Empowers every Court having Admiralty Jurisdiction, &c., to enquire into charges against Masters, Mates and Engineers, and report to Government; (5) such Court to declare its decision in open Court, &c., and (7) to give opportunity for defence is to summon such Master, &c.

6. Local Government may direct investigation in certain cases of unfitness for duties.

7. Supra.

8—9. Defines the case in which the local Government may cancel or suspend certificates of competency or service (1) in case of loss, &c., by default of Master, &c; (2) of incompetency, gross misconduct or tyranny, &c.; (3) in other specified cases; (4) of supercession by order of Admiralty Court, &c.; and (9) obliges Master, &c., to deliver up certificate if cancelled, under penalty.

10—11. Saves certain powers of Admiralty Courts in India under Act I. 1859, Section 80; and (11) this Act to be read as part of Act I. 1859.

An Act to amend Act I of 1859 (for the amendment of the law relating to Merchant Seamen.)

Preamble.

WHEREAS it is expedient to amend the provisions of Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) in so far as the said Act relates to agreements with Natives of India; to vessels trading from the Straits' Settlement to the Gulf of Siam, and the Eastern Archipelago; and to the cancelment and suspension of certificates of competency and service; It is enacted as follows:—

Certain Sections of Act I of 1859, and Act XXVIII of 1861, repealed.

I. Sections XVII, XXI, LXXXI, and LXXXII of the said Act I of 1859, and Act XXVIII of 1861 (*to extend the provisions of Act I of* 1859 *for the amendment of the law relating to Merchant Seamen*) are hereby repealed.

Sections IX to XVI of Act I of 1859 not to apply to ships registered under Act X of 1841, under certain circumstances.

II. Sections IX to XVI of the said Act I of 1859 shall not apply to ships registered under Act X of 1841 (*for prescribing the rules to be observed in order that ships or vessels belonging to Ports within the Territories under the Government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council, made in pursuance of the Statute* 3 *and* 4 *Victoria Chapter* 56), and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Lascars, or other Asiatic Masters and Seamen, or to ships of less than two hundred tons burden registered under the said Act X of 1841, and trading between any Port of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Gulf of Siam, or the Eastern Archipelago, when such ships are navigated exclusively by Malays, Lascars, or other Asiatic Masters and Seamen.

Agreements with seamen and others.

III. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every Seaman and with every Native of India not being a Seaman whom he carries to sea from any Port in India as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor-General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any Seaman or other person aforesaid signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

1.—The nature and, as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as Sailors.

3.—The time at which each Seaman and each Native of India not being a Seaman is to be on board or to begin work.

4.—The capacity in which each Seaman and each Native of India not being a Seaman is to serve.

5.—The amount of wages which each Seaman and each Native of India not being a Seaman is to receive.

6.—A scale of the provisions which are to be furnished to each Seaman and to each Native of India not being a Seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the Master and Seaman, and each Native of India not being a Seaman, in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to Law. Provided that, if the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages single Seaman, or any Native of India not being a Seaman, in any Port in India, such Seaman or other person aforesaid may sign the agreement so made, and it shall not be necessary for such Seaman or other person aforesaid to sign an agreement under this Act. Provided also that, in the case of Lascars or other Native Seamen, and every Native of India not being a Seaman, when it shall be agreed that the service of any such Seaman or other person aforesaid shall end at any Port not in India, the agreement shall contain stipulations for providing for such Seaman or other person aforesaid fit employment on board some other vessel bound to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be

Proviso as to forms for British or Colonial ships.

Proviso where Lascars, &c., are shipped.

agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

Court authorized to make enquiry into charges against Masters, Mates, and Engineers, and to report to local Government.

IV. Every Court having Admiralty Jurisdiction in India, and the principal Court of Ordinary Criminal Jurisdiction, at every Port in India where there is no Court having Admiralty Jurisdiction, is hereby authorized to investigate and try charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who shall have obtained his certificate from the Board of Trade, and to make enquiry as to shipwreck or other casualties affecting ships; and if on such investigation it shall appear to any such Court as aforesaid, that the loss or abandonment of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master, Mate, or Engineer, or that any such Master, Mate, or Engineer has been guilty of any gross act of misconduct, drunkenness, or tyranny, such Court may suspend, for such period as it shall think fit, or may cancel, such certificate, whether of competency or service, of such Master, Mate, or Engineer, and the Court shall report the same to the local Government within whose limits such Court is situated. Provided that no certificate shall be cancelled or suspended, unless a copy of the report, or a statement of the case upon which the investigation is made, shall have been furnished to the owner of the certificate before the commencement of the investigation. Provided also that the Report of such Court is confirmed by the Governor or other person administering the local Government wherein such Court is held.

Proviso.

Procedure of such Court.

V. Every Court by which any investigation or trial is held under the last preceding Section shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full Report upon the case with the evidence to the Board of Trade, and shall also,

if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their Report.

Local Government may direct investigation in cases of incompetency and misconduct.

VI. If the local Government, on the information of any Shipping Master, or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, or from any other local Government, is, from incompetency or misconduct, unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation into such charge of incompetency or misconduct, and shall, on the conclusion of the investigation, make a Report upon the case to the local Government which ordered the investigation.

Powers of Court, &c., in making enquiry.

VII. For the purpose of any such enquiry under Section IV or Section VI, the Court, Board, or Officer may summon the Master, Mate, or Engineer, as the case may be, to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses and may make such order with respect to the costs of such investigation, and may require such security for costs, as such Court, Board, or Officer may deem just. Every order in respect of costs under this Section may be enforced in like manner as a fine may be enforced by a Magistrate in the Port where such investigation is held.

Local Government may cancel or suspend certificates in certain cases.

VIII. The local Government may suspend or cancel the certificate (whether of competency or service) granted by such local Government, or by any other local Government, under the said Act I of 1859, to any Master or Mate, in the following cases; (that is to say)—

Loss, abandonment or serious damage by default of Master or Mate.

Clause 1. If upon any investigation conducted under the provisions of Sections C, CI, and CII, of Act I of 1859, it is reported that the loss or abandonment of, or serious damage to,

any ship, or loss of life, has been caused by his wrongful act or default.

Incompetency, gross misconduct, drunkenness or tyranny of Master or Mate.

Clause 2. If upon any investigation held under Section VI of this Act, the Master or Mate shall be reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

Or after other investigations.

Clause 3. If upon any investigation held under the provisions of the Merchant Shipping Act 1854, or the Merchant Shipping Amendment Act 1862, or upon any investigation made by a Naval Court constituted as is provided by any law for the time being in force, or upon any investigation made by any Court or Tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships, or as to shipwreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any Report by any such last-mentioned Court or Tribunal, the Report shall have been confirmed by the Governor or person administering the Government of such possession.

Supersession.

Clause 4. If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act 1854, or any other law for the time being in force.

Conviction of any offence.

Clause 5. If he is shown to have been convicted of any offence.

Master, Mate, or Engineer to deliver up his certificate. Penalty otherwise.

IX. Every Master, Mate, or Engineer whose certificate is cancelled or suspended under the provisions of this Act, shall deliver it to the Shipping Master, or to such other person as the Court or the local Government

which cancelled or suspended the certificate shall direct, and in default shall, for each offence, incur a penalty not exceeding five hundred Rupees. Provided that if the local Government which cancels or suspends a certificate of a Master or Mate is not the local Government that granted the same, the local Government which so cancels or suspends the certificate shall report the proceedings, and the fact of cancelment or suspension, to the local Government which granted such certificate. Provided also that it shall be competent to any local Government at any subsequent time to grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Proviso for report to other local Governments.

X. Nothing in this Act shall be held to affect the powers of removal vested by Section CCXL of the Merchant Shipping Act of 1854, or Section LXXX of the said Act I of 1859, in Courts having Admiralty Jurisdiction in India. The said powers may be exercised by the principal Court of Ordinary Criminal Jurisdiction at any Port in India where there is no Court having Admiralty Jurisdiction, if the Master or Mate shall have received his certificate from any local Government.

Saving of powers vested in certain Admiralty Courts.

Same powers may be exercised by Chief Criminal Court in Indian Port, where there is no Admiralty Court.

XI. This Act shall be read and taken as part of the said Act I of 1859.

Act to be taken as part of Act I of 1859.

EXCISE DUTY ON ART-CHEMICALS.

ACT No. XVI OF 1863.

(*Received the assent of the G. G. on the* 10*th March* 1863.)

Recites expediency to make special provision as to excise duty on spirits used exclusively in Arts, &c.

1—7. Prescribes *ad valorem* duty 10 per cent. on spirits removed from distillery to be used exclusively in Arts, &c., the same being first rendered unfit for human consumption; by means (2) to be approved by Government; under (3) penalty for contravention; and (4) establishes penalty for attempting to render spirits so removed fit for human consumption; (5) such penalty to be levied by distress and

sale of offender's goods; and (6) of detention of offender till realization; and (7) for imprisonment on failure to realize.

8. Excepts from Act III. 1852, Section 11, as to mixing spirits removed under this Act.

9. Establishes confiscation of liquor, &c., in case of conviction under Sections 3 and 4 of this Act.

An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.

Preamble.

WHEREAS it is expedient to make special provision for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry; It is enacted as follows:—

Such spirits may be removed from Distillery on payment of Duty, on condition.

I. Spirits intended to be used exclusively in Arts and Manufactures or in Chemistry may be removed from any licensed Distillery in any part of British India on payment of Duty calculated at ten per cent. on the value of the Spirits, provided that no Spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Rules for ascertaining and determining that spirits to be removed have been rendered unfit for human consumption, &c.

II. The Board of Revenue, or other Authority specially authorized in that behalf by the local Government, shall prescribe from time to time subject to the approval of the local Government, rules for ascertaining and determining that Spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section I of this Act; for causing such Spirits to be so rendered, if necessary, by its own Officers at the expense of the person who wishes to remove them; and for fixing the value of the Spirit on which the *ad valorem* Duty shall be levied.

Penalty for breach of such rules.

III. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue, or other Authority as aforesaid, under the last preceding Section of this Act, shall be liable on con-

viction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees for every such offence.

Penalty for attempting to render fit for human consumption, spirits removed under this Act.

IV. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, Spirits removed from a Distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand Rupees; and the possessor of such Spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees.

Such penalty how to be levied.

V. Any penalty imposed under either of the last two preceding Sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the Officer by whom such penalty was imposed.

In case of non-payment of penalty, offender may be detained pending return to distress warrant.

VI. In case any such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time, as shall be appointed for the return of the warrant of distress.

Imprisonment of offender in case of failure to recover penalty by distress.

VII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand commit the offender to the Civil Jail, there to be imprisoned, according to the discretion of such Officer, for any term not

exceeding two Calendar months when the amount of penalty shall not exceed fifty Rupees, and for any term not exceeding four Calendar months, when the amount shall not exceed one hundred Rupees, and for any term not exceeding six Calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Provisions of Section XI Act III of 1852 relating to adulteration, not to apply to spirits rendered unfit for consumption under this Act.

VIII. The prohibition contained in Section XI of Act III of 1852 (*to amend the law relating to spirituous and intoxicating liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay*) against mixing any noxious drug or material in, or by other process adulterating Spirits manufactured under the provisions of Regulation XXI of 1827 of the Bombay Code, or of the said Act III of 1852, shall not apply to Spirits rendered unfit for human consumption under this Act.

Confiscation in cases of conviction under Section III or IV.

IX. In every case of conviction under Section III or Section VI of this Act the liquor or Spirits with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such liquor or Spirit, shall be liable to confiscation.

MUNICIPAL COMMISSIONERS' STRAITS SETTLEMENTS.

ACT No. XVII OF 1863.

(*Received the assent of the G. G. on the* 10*th March* 1863.)

Recites expediency of extending term of office of Municipal Commissioners.

1. Repeals Act XXVII. 1856, Section 19.

2. Empowers Governor to extend time of office for not exceeding three years.

3—8. Provides graduated time of office for elected Commissioners; and (5, 6, 7, 8,) graduated scale does not apply; Governor to fix terms of office.

9—10. Limit term of office of Commissioners filling up vacancies.

11. Enjoins publication of the names of Commissioners.

12. Year of office to commence on 1st January after election; limits the number of Commissioners.

13 Act to be read as part of Act XXVII. 1856.

An Act to authorize the extension of the term of Office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

WHEREAS it is expedient that the term of Office of the Municipal Commissioners in the Straits' Settlement should be extended; It is enacted as follows:—

Section repealed.

Section suspended.

I. Section XIX of Act XXVII of 1856 (*for appointing Municipal Commissioners, and for levying rates and taxes in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), is repealed. The operation of Section XV of the said Act shall be suspended at the election of Municipal Commissioners under the said Act, to be held next after the passing of this Act.

Governor to declare for what period Commissioner appointed by him shall hold Office.

II. The Governor of the Settlement shall, upon the appointment of the Commissioner whom he is empowered by the said Act XXVII of 1856 Section V to appoint, declare for what number of years, not exceeding three, such Commissioner shall hold Office.

Elected Commissioners to hold Office for periods to be determined as provided.

III. The Municipal Commissioners of Prince of Wales' Island, Singapore, and Malacca, respectively, who shall be chosen at the said next election by the largest number of votes, shall hold their Office for one, two, or three years, as shall be determined in manner hereinafter mentioned.

Allotment of periods for tenure of Office, by number of votes.

IV. The Municipal Commissioner who is chosen at such next election by the largest number of votes shall hold his Office for three years; the Municipal Commissioner who is chosen by the next largest number of votes shall hold his Office for two years, and the remaining Municipal Commissioner shall hold his Office for one year.

V. If at any of the said Stations the three Municipal Commissioners chosen at the said next election shall be elected by an equal number of votes, the Governor, or, in his absence from such Station, the Resident Councillor shall declare and appoint the periods of three years, two years, and one year, respectively, for which every such elected Municipal Commissioner shall hold Office.

Allotment in case of votes for all three Commissioners being equal.

VI. If at any of the said Stations at the said next election, two of the Municipal Commissioners chosen shall have an equality of votes, but such number shall be greater than the number of votes given for the third Municipal Commissioner; the Governor, or, in his absence, the Resident Councillor shall declare and appoint the periods of three years, and two years respectively, for which each of the said two Municipal Commissioners shall hold Office; and the other Municipal Commissioner shall hold Office for one year only.

And in case of votes for two being equal and yet greater than for the third.

VII. If at any of the said Stations at the said next election, one of the Municipal Commissioners chosen shall have a number of votes larger than the other two Municipal Commissioners, and such other two Commissioners shall have an equality of votes, the Municipal Commissioner who shall have such larger number of votes shall hold Office for three years, and the Governor, or, in his absence, the Resident Councillor shall declare the periods of two years, and one year, respectively, for which each of the other two Municipal Commissioners shall hold Office.

And in case of one having a majority, and the other two an equal number.

VIII. If at any of the said Stations an equal number of votes be given for any two or more candidates at the next said election, so that the Sheriff or his Deputy is not able to declare as between such persons, which of them has been elected the Governor, or, in his absence, the Resident Councillor shall give a casting vote for one or more of such

When two or more candidates have an equal number of votes, election how to be determined.

persons, and reckoning such vote, shall declare the period for which such person or persons shall hold Office in manner provided in Section IV.

Term of tenure of Office of Commissioner appointed under Section XVI of Act XXVII of 1856.

IX. Every Commissioner appointed under Section XVI of the said Act XXVII of 1856, in consequence of a refusal to act; a failure of election, or otherwise, shall hold Office for such term as the Governor or Resident Councillor of the Station shall declare. Provided that such term shall in no case exceed three years, and shall be a term which shall conform to the terms for which the other Commissioner or Commissioners shall have been declared and appointed to hold Office under Section IV of this Act, so that the three Commissioners shall hold their Offices for three years, two years, and one year, respectively.

Proviso.

And of Commissioner appointed under Section XVII of said Act.

X. Every Commissioner appointed under the provisions of Section XVII of the said Act XXVII of 1856, in place of any Commissioner elected at the said next election, shall hold Office for the term for which the Commissioner in whose place he is appointed was entitled to hold Office.

Names and terms of Office to be published.

XI. The names of the persons elected or appointed to be Municipal Commissioners under this Act, and the terms for which such persons shall hold Office, shall be published in such manner as the Governor may direct.

Commissioners when to enter on Office. Subsequent elections limited to one. Appointments to vacancies.

XII. The Municipal Commissioners at each of the said Stations, elected under the provisions of this Act, shall enter upon their Office on the first day of January after their election, and shall hold Office for the periods hereinbefore provided. At every subsequent election under the said Act XXVII of 1856, one Commissioner only shall be elected. The Commissioner elected at such subsequent election shall hold Office for three years. Appointments to fill up any vacancy occasioned by the death, resignation, or refusal to act, of any such Commissioner, shall have effect for the period for

which such Commissioner would have held Office, but for such death, resignation, or refusal to act, and all the provisions of the said Act XXVII of 1856, so far as they are not effected by this Act, which relate to the election of three Commissioners at each annual election, shall, so far as practicable, be construed to apply to the election of one Commissioner only.

Construction of Act.

XIII. This Act shall be read and taken as part of the said Act XXVII of 1856.

MASTER'S OFFICE, FORT WILLIAM; OATHS; CIVIL PROCEDURE.

ACT No. XVIII OF 1863.

(*Received the assent of the G. G. on the* 10*th March* 1863.)

1—3. Gives Master special powers to enable him to settle and wind up matters; and (2) to report; and (3) supplements the Master's power.

4. That no fresh references shall be made to the Master except in suits already before him.

5. That all powers possessed by the Master may be exercised by the Judges.

6. Authorizes the Court to dismiss suits on certificate of the Master of no proceedings within one year.

7. Empowers Division Court to refer matters for investigation by a single Judge.

8. Empowers High Court to make general rules for winding up pending business.

OATHS.

All the Presidencies.

9. Substitutes affirmation for oath in H. M.'s Courts.

CIVIL PROCEDURE.

10. Process to be served by Attornies instead of Sheriffs.

11. Relieves Judge from signing process.

12. Empowers Governor of Bombay and Governor of Madras to extend the provisions of this Act to those Presidencies.

An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.

Preamble.

WHEREAS, at the time of the abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible; and whereas it is expedient that the law concerning the administration of oaths to Hindoos and Mahomedans in such Court should be assimilated to the law concerning such oaths in Courts not established by Royal Charter; and that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its Ordinary Original Civil Jurisdiction; It is enacted as follows:—

Power to Master to summon parties, &c., and to settle and wind up proceedings before him.

I. In order as expeditiously as may be to wind up all the suits, matters, and things which are now pending before the Master of the said High Court of Judicature at Fort William in Bengal, it shall be lawful for the Master at any time after the passing of this Act, at his own discretion, and without application on behalf of any of the parties to the suit or reference, and in such manner as he shall deem fit, to summon all or any of the parties to any suit, matter, or thing so pending, or their Solicitors, and thereupon to proceed with such suit, matter, or thing and to give such directions and make such orders as he may think necessary for the purpose of settling and winding up the same; but any such order shall be subject to be discharged or varied by the said Court upon application made for that purpose, and the Master shall be at liberty to proceed *ex-parte* for the purposes aforesaid in the absence of any of the parties, or their Solicitors neglecting or refusing to attend the summons, and it shall also be lawful for the Master at his discretion to proceed with the reference, and to make a special report to the Court notwithstanding the death of any of the parties to the suit or reference, or their absence from the jurisdiction of the Court, or in cases in which, after search to the satisfaction of the Master, parties are not to be found

within the jurisdiction of the Court, or it is uncertain whether such parties are living or dead.

Power to Court upon Master's report or certificate, to make order for prosecution and final disposal of any suit, &c., and for payment of costs, &c.

II. In case the Master shall be unable by reason of the conduct of parties, or otherwise, to dispose finally of any suit, matter, or thing referred to or pending before him (within such time as he shall in that behalf determine), he shall be at liberty to report on or to dispose of any part thereof within his power, and to report or certify on the whole of the case; and upon such report or certificate the Court shall make such order as it shall think proper on all or any of the parties, for the further prosecution of the suit or matter, or for the final disposal thereof, and for the payment of the costs thereof, including any of the costs which may have been incurred by reason of the conduct of the parties.

Neglect to bring report before the Court.

III. If within a time to be fixed by the Master in that behalf, the report or certificate of the Master shall not be brought before the Court, the Registrar shall bring such report or certificate before the Court, and the Court is hereby empowered to make such order or decree in the suit as to the Court shall seem fit.

No fresh references to Master except in suits already before him.

IV. From and after the passing of this Act no reference shall be made to the Master except in cases in which, from some previous reference made in the suit or matter, or in some other suit or matter connected therewith, the Court may think it expedient to make such reference.

All powers possessed by Master may be exercised by Judges.

V. From and after the passing of this Act all or any of the powers, authorities, and jurisdiction, which at the time of the abolition of the said Supreme Court were vested in the Master in Equity, may be exercised by the High Court, or by a Judge of the said Court.

Power to Court to dismiss suits upon certificate of Master that no proceedings have been taken for a year.

VI. Whenever it shall appear from the certificate of the Master that no proceedings have been taken in his Office for a period of one year in any reference pending before him, the Court shall have power to dismiss such

suit, or to make such other order or decree in the suit as to the Court shall seem fit.

Power of division Court to refer matters for investigation by a single Judge.

VII. It shall be lawful for any division Court consisting of more than one Judge to adjourn, for the consideration of a single Judge, any matters of account, detail, or other description which, in the opinion of such Court, may be more conveniently investigated by a single Judge sitting in Chambers, and such matters shall thereupon be investigated by a single Judge, who shall proceed with such investigation sitting either in Chambers or in open Court, and shall report thereon to a division Court, and such report shall as regards such division Court be final, but shall be open to revision by any Court of Appeal to whom the order or decree founded thereon may be appealed. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation.

Power to make rules.

VIII. The said High Court shall have power to make general rules for orders for winding up the business now pending in the Office of the said Master, and generally for regulating the conduct of business, and the manner in which the same shall be transacted in the Master's Office, and for regulating the procedure of a single Judge touching investigations before him under the provisions of this Act. Provided that such rules and orders shall not be inconsistent with the provisions of this Act, or of any Act for the time being in force relating to such matters.

Extension of Act V of 1840, concerning oaths and declarations of Hindoos and Mahomedans, to High Court.

IX. The proviso contained in Section IV of Act V of 1840 (*concerning the oaths, and declarations of Hindoos and Mahomedans*), that the said Act shall not apply to any declaration or affirmation made in any of Her Majesty's Courts of Justice, is hereby repealed, and Section I of the said Act V of 1840 shall be read as if the words following had been added thereto.

"And when verifying an Affidavit to the following effect:—I solemnly affirm in the presence of Almighty God that the signature to this is my name and hand-writing, and that the contents of this Affidavit are true."

Process from High Court may be served by Attorneys and others.

X. After the passing of this Act notices to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, except writs of summons to defendants issued under Section XLI of Act VIII of 1859 (*the Code of Civil Procedure*) and writs of execution, may be served by the Attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

Not to be necessary for a Judge to sign process.

XI. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons, or other judicial process issued or made in the exercise of the Ordinary Original Civil Jurisdiction of the said High Court. The said High Court shall have power from time to time to direct that such writs, orders, or other process shall be signed by such Officer or Officers of the said Court as to the Court may seem fit.

Extension of the Act to the High Courts at Madras and Bombay.

XII. This Act may be extended to the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort Saint George, and the Governor in Council of Bombay, respectively, to be published in the Official Gazettes of Madras and Bombay, respectively; and when so extended by such order, shall take effect in the said Courts from the date of the publication of such order. When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

PARTITION OF ESTATES.—NORTH-WESTERN PROVINCES.

ACT No. XIX OF 1863.

(Received the assent of the G. G. on the 10th March 1863.)

Recites expediency of consolidating, &c., the law relating to the partition of estates paying revenue to Government, &c.

1—2. Repeals so far as concern the North-Western Provinces, (except as to pending proceedings) Bengal Reg. IX. 1811; Bengal Reg. XI. 1811; Bengal Reg. XIX. 1814; Acts XX. 1836, and XI. 1838; and (2) directs that all future partitions shall be made under this Act.

3—5. Declares all recorded joint proprietors entitled to claim partition; (4) by an application in writing; (5) signed by applicant, &c.

6—8. Directs Collector what to do upon receiving such application; and (7) to refuse same on valid objection made; and (8) if the objection be to proprietory title of applicant Collector is to proceed according to Civil Code of Procedure.

9—10. Gives an appeal to District Court against all orders and decisions of Collectors for declaring rights; and (10) a special appeal to Sudder from District Courts.

11. Civil Court to have only appellate jurisdiction.

12—13. Directs Collectors what to do on partition being ordered; and (13) by whom order is to be carried out.

14. Directs that the expense of making partition shall be ascertained, &c., and in default of payment may be recovered how.

15. Partition may be stayed and proceedings quashed on grounds not known when commenced.

16. Directs by what steps partition is to be determined.

17—20. Empowers Collector to examine parties and papers; and (18) at end of enquiry to give the option of settlement by private agreement, or by arbitration; and (19) may, if parties cannot agree as to arbitrators, appoint them; and (20) appoint new arbitrator in case of vacancy.

21—23. Directs the Collector what to do to put arbitrators in action; and (22) what arbitrators shall do; and (23) entitles them to remuneration.

24—27. In default of first arbitrators to make award new ones may be appointed; and (25) in default of private agreement, &c., officer may be appointed to make partition; who (26) shall summon parties concerned; and (27) estates may be put under khas management.

28. Provides for payment of revenue if it falls in arrear pending proceedings for partition.

29. Empowers settlement officer to engage all necessary assistants in measuring, &c.

30—32. Directs Collector to declare the principle and rule under which lands held in common are to be divided; and (31) to refuse partition of such lands in certain cases; and (32) to transfer as separate estate lands held in severalty.

33. Deprives of his right to make objection shareholder who fails to attend on partition.

34. In case of wish of parties interested Collector, &c., may stop partition.

35. Directs that in making partition property shall be allotted so as to be as compact as possible.

36—37. The public revenue to be assessed on the new estates according to law for the time being; and (37) to be adjusted in amount according to difference of productive value and various circumstances specified.

38—40. Directs in case in which house of one sharer is on land of another, what shall be done; and (39) what shall be done in case of tanks, wells, water-courses, &c., property belonging to estate in common which cannot be divided; and (40) what as to places of worship.

41—44. Directs Settlement Officer, when partition of estate, and apportionment of revenue are complete, to submit papers, with map, to the Collector; who (42) shall take the whole matter into consideration; and (43) confirm or modify, partition, subject to appeal, and may direct lots to be drawn for shares; and (44) in case of appeal to Board, Collector shall publish and give effect to Board's decision.

45. Empowers Government to order new apportionment of revenue in case of error in apportionment or partition, from collusion, fraud, or other cause.

46. Party interested in estate, and entitled to hold at a fixed rent, but not making his claim by suit, to be barred his right, after partition, unless he can show good cause to the contrary.

47—49. Entitles decree-holders to claim partition of his share, and (48) holder of several shares originally undivided to have them united; application for which (49) is to be made, how.

50—51. The procedure directed by this Act may be applied in certain respects to pending cases; and (51) to partition of estate not paying revenue, so far as applicable.

52—53. Collector's duty under this Act to be subject to general control, &c., of Board; and (53) all his orders, except under Section 9, to be open to revision.

54—55. The powers of Collector may be exercised by Deputy Collector; (55) with the powers described in Regulation II. 1819, Regulation VII. 1822, and Regulation IX and XIV. 1825.

56. Gives Collector and Settlement Officer the same powers as Civil Court under Code of Criminal Procedure, of committing for offences.

57. Subordinates Board of Revenue to Government in the exercise of its functions under this Act.

58. Interpretation of words of Number and Gender.

59. Confines Act to Regulation parts of North-Western Provinces.

An Act to consolidate and amend the Law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal; It is enacted as follows:—

Laws repealed.

I. From the date of the passing of this Act Regulation IX of 1811 of the Bengal Code (*for facilitating the Division of landed Property, and for securing the Rights of joint Sharers in joint undivided Estates*), Regulation XI. 1811 of the same Code (*for extending the period fixed by the existing Regulations for revising the Jummu on Lands ordered to be divided into two or more Estates*), Regulation XIX. 1814 of the same Code (*for reducing to one Regulation, with alterations and additions, certain Regulations respecting the Partition of Estates paying Revenue to Government*), Act XX of 1836, and Act XI of 1838, except in so far as the said Regulations and Acts repeal any Regulation or Act, or any part of any Regulation or Act, and except as to the partition of any estate which shall be pending at the time of the passing of this Act, shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal. Unless as hereinafter provided, the partition of any estate which shall be pending at the time of the passing of this Act shall be proceeded with and completed in the same manner as if this Act had not been passed.

Future partitions to be made under provisions of this Act.

II. Except as directed in the last preceding Section, all partitions of estates which shall be ordered to be made by the Officers of Government after the passing of this Act, shall be made under the provisions of this Act, whatever may be the tenure of the estate ordered to be divided.

What parties entitled to partition.

III. Every recorded proprietor of a joint undivided estate paying Revenue to Government, or of any portion thereof, whether such estate is held in common tenancy or otherwise, is entitled to claim partition under this Act.

Parties desirous of partition to apply to Collector in writing.

IV. When any one or more of the recorded proprietors of an estate, as described in the last preceding Section, shall desire to have his or their shares of the estate separated, in order that he or they may hold the same as a separate property, or as separate properties, such proprietor or proprietors shall

make a written application for the purpose to the Collector of the District. Any two or more proprietors may apply to have their shares separated, and to hold the same as a joint estate.

Application to be signed and certain particulars specified.

V. The application shall be signed by the party or parties applying for the partition, and shall specify the nature of the tenure of the estate sought to be divided. The names of all the co-sharers in the estate, the nature and extent of their respective shares so far as the same may be known to the applicant or applicants, or can be ascertained by him or them, and the mode of partition desired, shall also be stated. If the application does not contain the particulars above-mentioned, the Collector may reject it.

Otherwise may be rejected.

Procedure of Collector on receipt of application.

VI. The Collector, on the receipt of an application for partition, shall, if the application be in order, and not open to objection on the face of it, publish a Notification of the same at his Office, and at some conspicuous place on the estate to which the application relates, and shall invite any party in possession, who may not have joined in the application, and who may object to the partition applied for, to appear before him either in person or by a duly constituted agent, on a day to be specified in the Notification not being less than fifteen, or more than thirty days from the date of the Notification, and state his objection. If the application for partition shall not have been made by all the recorded proprietors of the estate, notice of the application shall be served, in the manner usual in the District for serving notices of the Revenue Officers, on such of the recorded proprietors of the estate as shall not have joined in the application. Provided that, if from any cause such service cannot take place, a proclamation notifying such application shall be published, by affixing it at the Maal Cutcherry of such estate, or other conspicuous place thereon, or at the village Chowrie,

Notice to proprietors who have not joined therein.

Proclamation in case of service of notice being impracticable.

Choupal, or other conspicuous place in each village in such estate.

In case of valid objection being made within time allowed, application may be refused.

VII. If any objection be made to the partition, by any party in possession, within the time allowed, and the Collector, on a consideration of such objection, be of opinion that there is any good and sufficient reason, not inconsistent with the provisions of this Act, why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Procedure if question of title, or of proprietary right, be raised.

VIII. If the objection raise any question of title, or of proprietary right, which shall not appear to have been already determined by a Court of competent jurisdiction, the Collector may either decline to grant the application until the question in dispute shall have been determined by a competent Court, or he may proceed to enquire into the merits of the objection. In the latter case the Collector, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests in the actual possession of the party or parties applying for the partition, and any other party or parties who may be affected thereby. The procedure to be observed by the Collector in trying such cases shall be that laid down in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) for the trial of original suits, and the Collector shall have power to refer any question that may arise in such case to arbitration, and the provisions of Chapter VI (relative to arbitrators) of the Code of Civil Procedure shall apply to cases so referred by a Collector.

Reference to arbitrators.

Decision of Collector equivalent to decision of Civil Court, and open to appeal.

IX. All orders and decisions passed by the Collector under the last preceding Section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Judicature of first instance, and shall be open to appeal to the District or Sudder Court, according to the value of the claim, under the

rules applicable to regular appeals to those Courts. Upon such appeal being made, the District or Sudder Court, as the case may be, may issue a precept to the Collector desiring him to stay the partition pending the decision of the appeal.

Appellate Court may, on appeal, stay partition.

X. From every decision passed under the last preceding Section by a District Court, a special appeal shall lie to the Sudder Court under the rules for the time being in force relating to special appeals to that Court.

Special appeal to Sudder Court.

XI. It shall not be competent to the Civil Court to entertain a suit, or application for the partition of an estate, except on appeal from the decision of the Collector as hereinbefore provided, anything contained in Section 225, Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) to the contrary notwithstanding.

Civil Court to entertain suits only on appeal from decision of Collector.

XII. When the Collector, after disposing of the objections (if any) taken to the partition, shall order a partition to be made, he shall cause a Notification to be published in his own Office, in the District Court, and at some conspicuous place on the estate which is to be divided, intimating his intention to proceed with the partition after thirty days from the date of the Notification.

Notification on partition being ordered.

XIII. The partition shall be made by the Collector in whose District the estate is situate, or if the estate be situate in two or more Districts then by the Collector of any one of such Districts, who may be specially ordered by the Commissioner of the Division to superintend the partition. If the estate be situated in two or more Divisions, the partition shall be made by such Collector as the Board of Revenue shall order.

Partition by whom to be carried out.

XIV. The expense of making the partition, and the allowances of the establishment necessary for the measurement and survey of the lands, the prepraation of papers, and any other

Assessment and levy of costs incurred in making partition

charges shall be fixed by the Collector. The amount shall be paid under such rules as may from time to time be laid down by the Board of Revenue with the sanction of the local Government, and, in default of payment, may be realized under the rules applicable to the recovery of arrears of rent or Revenue.

Partition may be stayed, and proceedings quashed, by Commissioner.

XV. At any stage of the proceedings after a partition shall have been ordered, if it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any reason not inconsistent with the provisions of this Act exists, why the partition should not be proceeded with, it shall be competent to the Commissioner, on the report of the Collector, and subject to any orders that the Board of Revenue may pass in the case, to stay the partition, and to order the proceedings to be quashed. The decision of the Revenue Authorities under this Section shall not be open to revision by the Civil Court.

Decision not open to revision by Civil Court.

Procedure after lapse of period mentioned in Notification under Section XII.

XVI. After the expiration of the period mentioned in the Notification referred to in Section XII of this Act, the Collector shall, if necessary, cause a measurement of all the lands comprised in the estate to be made, and a rent-roll of the same to be prepared. The village papers which are required to be prepared and periodically deposited in the Office of the Collector, under the provisions of Sections XI and XII, Regulation IX. 1833 (*to modify certain portions of Regulation VII.* 1822, *and Regulation IV.* 1828; *to provide for the more speedy and satisfactory decision of Judicial Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of Native Agency in the Revenue Department; and to declare the intent of Section V, Regulation VII.* 1822, *touching claims to Malikana,*) may be used for the purposes of this Act. Provided that any of the proprietors

shall be permitted to file a rent-roll of the estate, which shall be accepted if acknowledged to be correct by all the proprietors.

Examination of the parties and their papers.

XVII. The Collector may examine the parties on solemn affirmation in regard to the papers produced before him, whether by the Officer appointed to make the partition, the proprietors, or otherwise. He shall also allow any shareholder to examine the papers so produced, and to take a copy of the same, and after such examination he shall hear any objections which any of the shareholders may make in respect to such papers. The Collector may direct any Deputy Collector or other Officer subordinate to him to examine the papers produced before him, and to make a report upon the same.

Option of settlement by private agreement. Procedure in case of refusal or default.

XVIII. The Collector, on the completion of the enquiry allowed by the last preceding Section, shall allow the parties the option of making a private partition of the estate and allotment of the public Revenue amongst themselves, within such time as he may fix, or, if the parties shall not consent to make a private partition of the estate, or shall fail to make such partition within the time fixed by the Collector, the Collector shall call upon them to state whether they are willing to refer the partition of the estate, and the apportionment of the public Revenue, to an arbitrator or arbitrators to be appointed by them. The Collector may also offer the parties the option of referring any point arising in the course of a partition to arbitration. The partition and allotment of the public Revenue made by the parties or by arbitrators appointed by them, shall be subject to the confirmation of the Collector, and the orders of the superior Revenue Authorities.

If parties cannot agree as to arbitrators, latter may be appointed by Collector.

XIX. If the parties consent to refer the partition of the estate, and the allotment of the public Revenue, or any point arising in the course of the partition, to arbitration, but they cannot agree amongst themselves

as to the arbitrator or arbitrators to be appointed, the Collector may appoint two or more persons to be arbitrators in the case. If the arbitrators are equally divided in opinion, the Collector shall act as umpire, and the partition made by the arbitrator or arbitrators with whom the Collector shall concur shall be the partition in the case. The same rule shall apply in respect of any point arising in the course of a partition, which shall be referred to arbitration.

In case of equality of votes, Collector to act as umpire.

XX. If any person, on being appointed an arbitrator, shall refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed arbitrator in his stead, in the same manner in which the first person was appointed.

Appointment in place of arbitrator refusing, or being unable to act.

XXI. After the arbitrators shall have accepted the appointment, the Collector shall transmit the whole of the papers to them, and it shall be competent to the Collector to exercise towards the arbitrators the same powers and authority for securing their attendance, and the due completion of their award which he is competent to exercise towards witnesses summoned before him when acting judicially, for the purpose of compelling them to attend and give evidence. The Collector shall also fix a time within which the arbitrator or arbitrators shall deliver the paper of partition. On sufficient cause shown, the Collector may extend such period.

Powers of Collector with regard to arbitrators.

XXII. The arbitrators shall deliver a full and complete paper of partition, specifying the separate estates into which they propose that the estate shall be divided, the names of the parties to whom the several estates are proposed to be allotted, and the amount of public Revenue to be assessed on each of such estates.

Particulars to be specified in partition paper.

XXIII. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount to be fixed by the Collector.

Remuneration of arbitrators.

XXIV. If the paper of partition be not delivered within the time fixed by the Collector, or within any further period to which the time may have been extended, the Collector may order that the partition shall be referred to another arbitrator or arbitrators, to be chosen in the same manner and subject to the same rules as the first.

In default of award by first arbitrators, partition may be referred to others.

XXV. If the partition of the estate cannot be made by the parties themselves, or by arbitration under the foregoing rules, the Collector shall appoint an Officer to make the partition, and shall forward the whole of the papers to such Officer, and shall direct him to proceed to the estate, and to make the partition within a time to be fixed by the Collector.

In default of private agreement, or settlement by arbitration, Officer may be appointed to make partition.

XXVI. The Officer appointed to make the partition shall issue a proclamation at the Maal-Cutcherry of the estate, or other conspicuous place thereon, or at the village Chouree, or Choupal, requiring the several proprietors of the estate to attend upon him in person, or by agent, during the time that the partition is being made.

Who shall summon proprietors by proclamation to attend proceedings.

XXVII. At the commencement of the Revenue year current in the District, the Collector may direct the Officer appointed to make the partition or some other person, to attach the estate, and to bring it under Khas management under the personal superintendence of such Officer. The collections of the estate, after defraying the expenses of management, and any other expenses with which the estate is chargeable, shall be applied to the payment of the Government Revenue, and the residue shall be divided amongst the proprietors in proportion to their respective shares, at such periods as the Collector may see fit.

Estate may be attached and brought under Khas management under superintendence of Officer.

XXVIII. If an arrear of public Revenue shall accrue on an estate ordered to be divided, while the partition of the estate is being made, any one or more of the proprietors may tender

Procedure in case of arrears of revenue accruing during course of partition of estate.

to the Collector his or their quota of the balance, and the Collector shall receive the same, and credit the amount to the share or shares of such proprietor or proprietors. If a sale of any part of the estate shall ultimately become necessary for the liquidation of anypart of such arrear which may remain due, only the share or shares of the proprietor or proprietors who shall not have contributed their quota of the balance shall be sold in the first instance, and the partition shall go on and be completed, in the manner same as if no arrear of public Revenue had accrued. The purchaser or purchasers of the share or shares sold shall be entitled to separate possession of the estate or estates which, under the partition, would have been allotted to the defaulting proprietor or proprietors. Provided always that, in all cases of a partition, the entire estate shall be considered responsible for the public Revenue assessed upon it, until the partition shall have been completed, and the several proprietors shall have been put into possession of the separate estates into which the estate may be ordered to be divided, according as the same may be allotted to them.

Powers of Officer charged with partition, in respect of measurement, &c.

XXIX. If the Officer appointed to make the partition shall consider it necessary, to assist him in making the same, to cause a detailed measurement to be made of all the lands comprised in the estate, or a map of the estate to be prepared, he shall exercise the same powersf or making such measurement and map as are vested in the Collector by any law for the time being in force.

Division of lands held in common.

XXX. When some of the lands forming the estate are held in common, the Collector shall declare, by a proceeding to be held under the provisions of this Act, the principle and rule under which, in accordance with the village custom, such lands shall be divided; and he shall cause the partition of such lands to be made in comformity to the provisions of this Act. The portion of the common land falling by such partition to the shares of the several co-sharers shall be added to the lands held by

them in severalty, and the several estates thus formed shall be assessed and declared separate estates. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to by the parties, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Proviso.

XXXI. The Collector may refuse to declare any lands held in severalty, and not liable to re-distribution according to special village custom, a separate mehal, if the lands be so intermixed with other properties as to render the formation of a compact estate impossible, and if the parties affected by the partition decline to permit of the transfers necessary for curing such defect.

Collector may refuse to separate lands in certain cases.

XXXII. Where there may be no lands held in common, the lands in severalty, held by the applicant for partiton, or assigned to him by the Collector under the provisions of this Act, shall be assessed and declared a separate estate. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to, or directed by his order, as provided in Section XXX, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

Where no lands held in common, lands in severalty may be declared a separate estate.

Proviso as to transfers.

XXXIII. If any sharer, after the issue of the proclamation mentioned in Section XXVI of this Act, shall fail to attend, the Officer appointed to make the partition during the time the partition is being made, no objection taken by such sharer to the partition shall be heard, unles such sharer can show that his absence was not wilful, or unless for any good and sufficient reason it shall appear just and proper to allow him to be heard against the partition.

Sharer failing to attend after proclamation liable to forfeit right of objection.

XXXIV. If at any time after an order shall have been passed for making a partition, it shall appear, either from the report of the Officer appointed to make the partition, or from any other information, that

Partition may be stayed if parties so desire.

the parties are not desirous that the partition should proceed, it shall be competent to the Collector, with the sanction of the Commissioner, to stop the partition, and to strike the case off the file, recovering from the sharers all costs and expenses incurred up to that time.

Recovery of costs.

XXXV. It shall be the duty of the Officer appointed to make the partition, so far as circumstances will admit, to take care that the estates into which the estate is divided shall consist of contiguous mehals or villages. Provided that, if the estate ordered to be divided shall not consist of a sufficient number of villages to admit of one or more entire village or villages being included in each estate, the partition of the village or villages of which the estate shall consist shall be made so as to render each estate as compact as possible.

Estates formed in course of partition to be as compact as possible.

XXXVI. The public Revenue shall be assessed on each estate into which the property shall be ordered to be divided, in conformity to the rules contained in any law for the time being in force.

Revenue to be assessed on each divided estate.

XXXVII. In selecting the villages or lands to be included in each separate estate, the advantages or disadvantages arising from situation; the vicinity of roads, Railways, navigable rivers, or canals; the nature and quality of the soil and produce; the quantity of culturable and unculturable waste land; the depth at which water may be procurable; the number of tanks and wells; the state of the embankments and water-courses; and any other local circumstances affecting the present, or likely to influence the future value of the lands, shall be duly considered: and the villages or lands to be included in each estate shall be fairly and impartially selected. So far as may be practicable, and consistent with compactness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

Circumstances to be considered in making partitions.

Rule when dwelling-house belonging to one sharer, is situate on ground to be allotted to another sharer.

XXXVIII. If a dwelling-house belonging to one sharer shall be situate on any land, or in any village, which it may be necessary to include in the share of another sharer, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and grounds, immediately attached thereto, upon agreeing to pay to the proprietor of the land or village in which the same is situate an equitable rent for the ground. The limits of the ground and the rent to be paid for it shall be fixed by the Officer making the partition, and shall be stated in the paper of partition.

Rule as to tanks, wells, water-courses, and embankments.

XXXIX. Tanks, wells, water-courses, and embankments, shall be considered as attached to the land, for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of such works it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates into which the estate may be divided, the paper of partition shall specify, as far as circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

Rule as to places of worship.

XL. Places of worship, which shall have been held in common previous to the partition of an estate, shall continue to be so held, unless the party shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Officer making the partition shall enter a note of the agreement in the paper of partition.

Particulars to be contained in the paper of partition to be submitted by Officer making same.

XLI. When the Officer appointed to make the partition shall have completed the partition, and allotted the public Revenue on each of the estates into which it is proposed that the estate shall be divided, he shall prepare and submit to the Collector a paper of partition, showing how he proposes to divide the estate, and to apportion the public Revenue. This paper

shall specify the names of the Mehals or villages included in each separate estate; the gross produce of each Mehal and village for the three years immediately preceding the year in which the partition is ordered to be made; the names of the parties to whom the several estates are allotted, and the proportion of the public Revenue proposed to be assessed on each of such estates, with any remarks regarding the mode observed in selecting the lands included in each estate, and the accounts upon which the apportionment of the public Revenue assessed thereon shall have been based, as may be necessary for the information of the Collector. The paper shall further contain a detail of the adjustments, if any, which shall have been made in respect to any tanks, places of worship, or other matters, as specified in the preceding Sections. The Officer appointed to make the partition shall also submit a map, showing the several estates into which the estate is proposed to be divided.

Map to be also submitted.

XLII. The Collector shall take into consideration the partition proposed by the Officer appointed to make the partition, and, after calling for any further information which he shall deem necessary, and disposing of any objections which shall be taken to the partition, and allotment of public Revenue, as proposed by such Officer, he shall submit a report to the Commissioner together with such of the papers of the case as shall appear to him essential. He shall also forward a list of the papers not sent. The Collector shall record his opinion whether the proposed partition should be confirmed or modified, and in the latter case, he shall state the nature of the modification which, in his opinion, should be made.

Procedure of Collector thereupon.

XLIII. The Commissioner shall either uphold the partition proposed by the Collector, or modify the same. The decision of the Commissioner shall not be open to revision by the Civil Court, but shall be subject to appeal to the Board of Revenue. The Commissioner, before coming to a decision, may call for any additional papers, or direct any further inquiry that he

Commissioner may confirm or modify partition subject to appeal to Board of Revenue.

shall consider necessary. He may also, if he think proper, direct that, when two or more of the estates into which it is proposed to divide the estate shall consist of the same proportions of the entire estate, the parties entitled thereto shall draw lots for the same before the Collector.

And may direct division by lot under certain circumstances

XLIV. On the receipt of the order of the Commissioner, or if an appeal be preferred to the Board of Revenue, then, of the order passed on the appeal, the Collector shall cause the same to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order. The Collector shall at the same time specify the date from which each of the estates shall be held to be a separate estate, and shall enter the several estates into which the estate has been divided in the Register of Estates paying Revenue to Government. The Collector shall give the several proprietors possession of the estates allotted to them, and, if necessary, may avail himself of the assistance of the Magistrate in giving possession.

Procedure by Collector on receipt of order of Commissioner, or of Board of Revenue on appeal.

XLV. In order to prevent collusion or error in the distribution of the public Revenue assessed upon an estate which may be ordered to be divided into two or more distinct estates, if it shall be proved to the satisfaction of the Government, within twelve years from and after the date of confirmation of the partition, that the public Revenue was fraudulently or erroneously apportioned at the time of the partition, the Government shall have power to order a new allotment of the public Revenue upon the several estates into which such estate may have been divided, conformably to the principles prescribed in this Act, on an estimate of the gross produce of each estate at the time of the partition, to be made agreeably to the best evidence and information which may be procurable respecting the same. Such order shall not be liable to be contested in the Civil Court. The parties whose estates may be declared to have been under-

Government may order new allotment of public Revenue among estates formed by partition, in case of fraud or error in original allotment being proved

assessed shall be required to pay to the proprietors of the estates which shall have been over-assessed the sum in which they shall be found to have been over-assessed, and in default of payment, the amount shall be leviable by the process prescribed for the recovery of arrears of rent or Revenue.

Consequence to party having interest in any estate, if he neglect to affirm or establish such interest while the estate is under attachment with a view to partition.

XLVI. If, during the time an estate is under attachment with a view to the partition of the same, any party shall neglect or omit to claim, by a suit, any right or title he may then have to the ownership or occupancy, at a fixed rent, of any land situated in such estate, or any other interest therein, such neglect or omission shall be a valid plea in bar of any suit relating to such right, title, or interest, unless the party can satisfy the Court that there was good and sufficient reason for his neglect or omission to institute the suit at or before such time. Provided that this Section shall not bar any action for arrears of rent, or the enhancement or alteration of rent.

Holder of decree of Civil Court, awarding right to portion of an estate, may apply for partition, and Collector may proceed thereon under Act.

XLVII. Whenever any Court of Civil Judicature shall pass a decree, awarding to any person the proprietary right in a portion of an estate paying Revenue to Government, whether the portion so awarded shall consist of a fractional share in the whole, or a part, of the estate, or of specific lands, the decree-holder may apply to the Collector for a partition of the estate; and on the receipt of such application, the Collector shall proceed thereupon under the provisions of this Act, which are hereby declared applicable to such applications.

Union in certain cases of severed portions of estates originally undivided.

XLVIII. If two or more estates, which may have originally formed portions of the same estate, shall come into the possession of one person, such person shall be entitled to have such estates united, and to hold them as a single estate; or if two or more persons shall have separate possession of their respective shares of an estate which was originally held as a joint undivided estate, such persons may

apply to have their shares united, and to hold them as one estate.

Application for such union how to be made, and how to be dealt with

XLIX. The applications for the union of the estates, or of the shares of the estate, as the case may be, shall be made in writing to the Collector of the District in which the estates, or shares of the estate, are situate, and the Collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his Office, reporting the case to the superior Revenue Authorities.

Certain provisions of Act applicable to partition cases pending at the time of its passing.

L. The provisions of this Act, so far as they relate to the completion and confirmation, or to the staying or quashing, of the partition of an estate, may be applied, at the discretion of the Collector, in all cases of the partition of estates pending at the time of the passing of this Act.

Provisions of Act may be applied to partition of estates held free from payment of Revenue.

LI. The provisions of this Act may, in so far as the same are applicable, be applied by order of the local Government to the partition of any estate held free from the payment of Government Revenue.

Control of Collector's proceedings under Act.

LII. In the performance of his duties under this Act, the Collector shall be subject to the general direction and control of the Commissioner of the Division, and the Board of Revenue.

Orders of Collector, except in certain cases, open to revision by superior Revenue Authorities.

LIII. All orders passed by a Collector under this Act, unless otherwise provided, not being orders or decisions within the meaning of Section IX, shall be open to revision by the superior Revenue Authorities.

What other Officers may exercise powers vested in Collector by this Act.

LIV. The powers vested in a Collector by this Act may be exercised by a Deputy Collector, or other Officer vested with the full powers of a Collector, subject to the control of the Collector of the District.

Powers to be exercised by Collector, or Officer appointed to make partition.

LV. In carrying out the provisions of this Act, the Collector shall exercise the powers described in Regulation II. 1819, Regulation VII. 1822, and Regulations IX. and XIV. 1825. Any Officer appointed to make a partition under this Act, may also exercise the powers described in the foregoing Regulations, so far as the same may be applicable.

Powers of Officers exercising jurisdiction under this Act, with regard to false evidence.

LVI. If, in any case in which a Collector or other Officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other Officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a Civil Court, when any such offence is committed before or against such Court, or when a document charged to be a forgery is given in evidence in any proceedings in such Court.

Board of Revenue to be guided by instructions of local Government

LVII. In the execution of the duties vested in the Board of Revenue by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the local Government, to whom they shall apply in all cases which shall appear to the Board not to have been provided for by the existing law.

Interpretation.

LVIII. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

Territorial scope of Act.

LIX. This Act shall extend only to such parts of the North-Western Provinces of the Presidency of Fort William in Bengal as are subject to the general Regulations of that Presidency; but

the Act may be extended, by order of the local Government, either wholly or in part, to any Non-Regulation Province under such Government.

NATIVE RELIGIOUS ENDOWMENTS.—BENGAL AND MADRAS.

ACT No. XX OF 1863.

(Received the assent of the G. G. on the 10th March 1863.)

Recites the expediency of relieving Boards of Revenue, &c., in Bengal and Madras, from management, &c., of religious endowments.

1. Repeals so much of Bengal Regulation XIX, 1810, and Madras Regulation VII, 1817, as relates to endowments for support of temples and other religious purposes.

2. Interpretation of words "Civil Court," "Court," and of Number and Gender.

3. Directs local Government to make the special provision described in the Act to transfer its powers over certain religious endowments to trustee, &c.

4—6. In cases in which religious trusts are vested in trustee, &c., but the endowments are in the possession of Board of Revenue, suchproperty except, &c., shall be transfered to trustee, &c.; and (5) gives Civil Court jurisdiction in case of dispute about succession to office of trustee; and (6) such trustee's rights, duties, and responsibilities shall be same as if this Act had not passed.

7—9. Directs that in every Division a committee or committees shall be appointed to perform duties now performed by Board of Revenue, &c.; (8) committee to be composed of persons likely to be agreeable to the persons interested in the Temple, &c.; who (9) shall hold office for life, unless removed by Civil Court.

10—11. Directs how vacancies in committees are to be filled up; and (11) that no trustee, &c., shall be a committee man.

12. On appointment of committee, Board, &c., to transfer property.

13—18. Makes it the duty of trustee, &c., to keep accounts, &c.; and (14) entitles any persons interested pecuniarily; or (15) otherwise to sue trustee, &c.; but (18) only by leave of Court; and (16) such suit may be referred to arbitrators; or (17) dispute may be referred under Code of Civil Procedure.

19. Court may order trustees to file accounts.

20. Civil suit not to prevent proceedings for criminal breach of trust.

21. Limits application of Act to such portions of property held for religious and secular purposes, as applies to the former, and provides for management of the latter by Board, &c.

22—23. Prohibits, except as provided by this Act, Government superintendence of property held for religious endowment; and (23) saves the Regulations mentioned in Section 1, except as to Mosques, &c.

24. Interprets the word "India."

An Act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

WHEREAS it is expedient to relieve the Boards of Revenue, and the Local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX. 1810 of the Bengal Code *(for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes; for the maintenance and repair of Bridges, Serays, Kuttras, and other public buildings; and for the custody and disposal of Nuzzool Property or Escheats)*, and Regulation VII. 1817 of the Madras Code *(for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges, or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chuttrums, and other public buildings; and for the custody and disposal of Escheats)*, so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of Trustees or Managers thereof; or involve any connexion with the management of such religious establishments: and whereas it is expedient for that purpose to repeal so much of Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes; It is enacted as follows:—

Regulations repealed.

I. So much of Regulation XIX. 1810 of the Bengal Code, and so much of Regulation VII. 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes, are repealed.

Number.

II. In this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

"Civil Court," and "Court"

The words "Civil Court" and "Court" shall mean the Principal Court of Original Civil Jurisdiction in the District in which the Mosque, Temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act.

Local Government to make special provision respecting Mosques, &c., in certain cases.

III. In the case of every Mosque, Temple, or other religious establishment to which the provisions of either of the Regulations specified in Section I are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government, or any public Officer, or in which the nomination of such Trustee, Manager, or Superintendent shall be subject to the confirmation of the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Transfer to independent Trustees, &c., of all property belonging to their Trusts, &c., remaining in charge of Revenue Board or others.

IV. In the case of every such Mosque, Temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager, or Superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided; and the powers and responsibilities of the Board of Revenue, and the local Agents, in respect to such Mosque, Temple, or other religious establishment, and to all

land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue, or any local Agent, previous to such transfer, shall cease and determine.

Procedure in case of dispute as to right of succession to vacated Trusteeship, &c.

V. Whenever from any cause a vacancy shall occur in the office of any Trustee, Manager, or Superintendent, to whom any property shall have been transferred under the last preceding Section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the Mosque, Temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, to apply to the Civil Court to appoint a Manager of such Mosque, Temple, or other religious establishment, and thereupon such Court may appoint such Manager, to act until some other person shall by suit have established his right of succession to such office. The Manager so appointed by the Civil Court shall have, and shall exercise, all the powers which, under this or any other Act, the former Trustee, Manager, or Superintendent, in whose place such Manager is appointed by the Court, had or could exercise, in relation to such Mosque, Temple, or religious establishment, or the property belonging thereto.

Rights, powers, and responsibilities of Trustees, &c., to whom any charge shall be transferred.

VI. The rights, powers, and responsibilities of every Trustee, Manager, or Superintendent, to whom the land and other property of any Mosque, Temple, or other religious establishment is transferred in the manner prescribed in Section IV of this Act, as well as the conditions of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue, and local Agents, given by the Regulations hereby repealed, over such Mosque, Temple, or religious establishment, and over such Trustee, Manager, or Superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any

Board, or local Agent, for the recovery of the rent of land or other property transferred under the said Section IV of this Act may, from the date of such transfer, be exercised by any Trustee, Manager, or Superintendent to whom such transfer is made.

Appointment of Committees.

VII. In all cases described in Section III of this Act, the local Government shall once for all appoint one or more Committees in every Division, or District, to take the place, and to exercise the powers, of the Board of Revenue and the local Agents under the Regulations hereby repealed. Such Committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local Agents, except in respect of any property which is specially provided for under Section XXI of this Act.

Provision as to qualifications for Member of such Committee.

VIII. The Members of the said Committee shall be appointed from among persons professing the religion for the purposes of which the Mosque, Temple, or other religious establishment, was founded, or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such Mosque, Temple, or other religious establishment. The appointment of the Committee shall be notified in the Official Gazette. In order to ascertain the general wishes of such persons in respect of such appointment, the local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such local Government.

Every Member to be appointed for life, unless removed for misconduct, &c.

IX. Every Member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

Provision for filling up vacancies.

X. Whenever any vacancy shall occur among the Members of a Committee appointed as above, a new Member shall be elected to fill the vacancy, by the persons interested as above provided. The

remaining Members of the Committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new Member by the persons interested as above provided, under rules for elections which shall be framed by the local Government, and whoever shall be then elected, under the said rules, shall be a Member of the Committee to fill such vacancy. If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining Members of the Committee, with which order it shall then be the duty of such remaining Members to comply, and if this order be not complied with, the Civil Court may appoint a Member to fill the said vacancy.

No Member of a Committee to be Trustee, &c., of the Mosque, &c., under charge of such Committee.

XI. No Member of a Committee appointed under this Act shall be capable of being, or shall act, also as a Trustee, Manager, or Superintendent of the Mosque, Temple, or other religious establishment, for the management of which such Committee shall have been appointed.

On appointment of Committee, Board and Local Agents to transfer property.

XII. Immediately on the appointment of a Committee, as above provided, for the superintendence of any such Mosque, Temple, or religious establishment, and for the management of its affairs, the Board of Revenue, or the local Agents acting under the authority of the said Board, shall transfer to such Committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession, of the said Board or local Agents, and belonging to the said religious establishment, except as is hereinafter provided for, and thereupon the powers and responsibilities of the Board and the local Agents, in respect to such Mosque, Temple, or religious establishment, and to all land and other property so transferred, except as above, and except as regards

acts done and liabilities incurred by the said Board or Agents previous to such transfer, shall cease and determine. All the powers which might be exercised by any Board or local Agent for the recovery of the rent of land or other property transferred under this Section, may from the date of such transfer be exercised by such Committee to whom such transfer is made.

Accounts of receipts and disbursements.

XIII. It shall be the duty of every Trustee, Manager, and Superintendent of a Mosque, Temple, or religious establishment, to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of the endowments and expenses of such Mosque, Temple, or other religious establishment; and it shall be the duty of every Committee of Management, appointed or acting under the authority of this Act, to require from every Trustee, Manager, and Superintendent of such Mosque, Temple, or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such Committee of Management shall themselves keep such accounts thereof.

Any person interested may sue in case of breach of trust, &c.

XIV. Any person or persons interested in any Mosque, Temple, or religious establishment, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or Superintendent of such Mosque, Temple, or religious establishment, or the Member of any Committee appointed under this Act, for any misfeasance, breach of trust, or neglect of duty, committed by such Trustee, Manager, Superintendent, or Member of such Committee, in respect of the Trusts vested in, or confided to, them respectively, and the Civil Court may direct the specific performance of any act by such Trustee, Manager, Superintendent, or Member of a Committee, and may decree damages and costs against such Trustee, Manager, Superintendent, or Mem-

ber of a Committee, and may also direct the removal of such Trustee, Manager, Superintendent, or Member of a Committee.

Nature of interest entitling a person to sue.

XV. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trusts. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any Mosque, Temple, or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

Reference to arbitrators.

XVI. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI of the Code of Civil Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code.

Reference under section 312 of Civil Procedure Code.

XVII. Nothing in the last preceding Section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said Code of Civil Procedure.

Preliminary application for leave to institute suit.

XVIII. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit The application may be made upon unstamped paper. The Court, on the persual of the application, shall determine whether there are sufficient *primâ facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution. In calculating the costs at the termination of the suit, the

Costs.

Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit. If the Court shall be of opinion that the suit has been for the benefit of the Trust, and that no party to the suit is in fault, the Court may order costs, or such portion as it may consider just, to be paid out of the estate.

Court may require accounts of Trust to be filed.

XIX. Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the Trustee, Manager, or Superintendent, or any Member of a Committee, as the case may be, to file in Court the accounts of the Trust, or such part thereof as to the Court may seem necessary.

No Civil suit to bar proceedings for Criminal Breach of Trust.

XX. No suit or proceeding before any Civil Court under the preceding Sections, shall in any way affect or interfere with any proceeding in a Criminal Court for Criminal Breach of Trust.

Provision for cases in which the endowments are partly for religious and partly for secular purposes.

XXI. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character, or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustee, Manager, or Superintendent, or to any Committee of Management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the Trustee, Manager, or Superintendent, or of the Committee, and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said Trustee, Manager, or Superintendent, or of the Committee, and made payable to the said Board or to the local Agents, for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Government not to hold charge henceforth of property for support of any Mosque, Temple, &c.

XXII. Except as provided in this Act, it shall not be lawful, after the passing of this Act, for any Government in India, or for any Officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Mosque, Temple, or other religious establishment, or to take any part in the management or appropriation of any endowment made for the maintenance of any such Mosque, Temple, or other establishment, or to nominate or appoint any Trustee, Manager, or Superintendent thereof, or to be in any way concerned therewith.

Effect of Act in respect of Regulations therein mentioned and of buildings of antiquity, &c.

XXIII. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to Mosques, Hindoo Temples, and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

"India."

XXIV. The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

RECORDER'S COURTS, SMALL CAUSE COURTS, BRITISH BURMAH.

ACT No XXI OF 1863.

(Received the assent of the G. G. on the 10th March 1863.)

Recites Resolution of G. G. in C., 31st January 1862, for establishment of a Recorder and of Small Cause Courts.

1—9. Authorises G. G. in C. to establish a Recorder's Court for Akyab, Rangoon, and Moulmein; (2) Recorder to be a barrister of 5 years standing; (3) who is to make solemn declaration on entering office; or (4) Recorder may be appointed for each town; and (5) while only one, he to make circuit; and (6 and 7) notify time

and place of holding courts; and (8) may hold other courts than those notified; and (9) same if only one Recorder for two courts.

10—11. Recorder to exercise jurisdiction within limits to be fixed by Chief Commissioner, &c.; and (11) have cognizance of suits respecting land situate within local limits, and causes of action arising, or if defendant resides, &c., within local limits.

12—13. Empowers Chief Commissioner to transfer to Recorder's Courts suit from any other Courts; and (13) ordinarily Recorder is to try a suit only in the Court in which it is instituted or to which transferred, &c., except by consent of parties.

14—15. Directs each of the Courts to have a seal, and how it shall be kept; and (15) empowers the Recorder to appoint clerks and ministerial officers.

16—18. Only licensed advocates to act, and how to be admitted, except advocates and vakeels of High Court, and saves right of parties to act for themselves; and (17) Recorder may for sufficient reason withdraw license of advocate; and (18) fees of advocate, whether licensed or not, to be subject to taxation of Recorder.

19—20. Empowers Recorder to make rules for service of process, &c.; (20) save as otherwise provided by this Act. Procedure of Recorder's Courts to be that of Act VIII, 1859.

21. The law of the Court to be that of the Calcutta High Court, except as to suits against Natives, relating to marriage, succession, and inheritance.

22—26. Court may submit to High Court statement of question of law, &c., for its opinion; proceeding (23) in meantime with suit, but staying execution; and (24) case submitted to be decided by two or more Judges; and (25) be argued by counsel, and judgment to be transmitted to Recorder; and (26) costs of case to be costs in the cause.

27—28. Gives an appeal from Recorder to High Court in cases of value between 3,000 and 10,000 Rupees; and (28) may grant new trial in suits relating to land within three months; and in other suits within thirty days; saving also power to review on terms of giving security at discretion of Recorder.

29. Gives the Recorder exclusive jurisdiction in cases arising under Acts XIX, 1841; XXXV, 1858; XL, 1858; and IX, 1861; or Act XXVII, 1860; his order not to be subject to appeal, &c.

30—36. Authorizes the Recorder to constitute one or more assessors of the Court; and (31) the G. G. in C. to appoint a Registrar; and (32) defines some of his duties; and (33) gives him specified duties as to presentation of plaints; and (34) as to applications for execution; and (35) gives him in certain cases powers of Small Cause Court, subject to the control of the Recorder; and G. G. in C. may constitute him full Small Cause Court; in such suits (30) Registrar is to proceed according to Act XLII, 1860, &c.; but Recorder may transfer case to his own file.

37. No appeal to lie from Registrar, but he may state case for opinion of Recorder.

38. Empowers Recorder to refer suits of value not exceeding 100 rupees, though not cognizable under Act XLII, 1860, and in such suits an appeal to lie to Recorder, whose decision shall be final, or who may state case to High Court.

39. In all suits in which the matter in issue is of the value of 10,000 rupees or upwards, an appeal is to lie to H. M. in Council.

40—42. Gives the Recorder the powers of a Court of Session as defined in Code of Criminal Procedure, but excepts British subjects in capital offences; but (41) in other cases British subjects may be committed for trial by Recorder; (42) proceedings in his Court to be according to Code of Criminal Procedure.

43. Directs that no sentence of death shall be carried out, without confirmation by Chief Commissioner, who may commute it.

44—45. Directs that no appeal shall lie from Recorder in criminal case, but Recorder may reserve points for opinion of High Court; and (45) on reserved case High Court may review, if Advocate General certifies his opinion that there is an error, &c.

46. Extends Stamp Duties to Recorder's Courts.

47—48. Empowers the Commissioner of the Division to sit with the Recorder in cases arising within his Division; and, (48) in absence of Recorder, may, in such cases, exercise all the powers of Recorder.

49. Directs the Recorder to keep register book, &c.

50. Interprets word "Barrister."

An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Courts of Small Causes in the said Towns.

Preamble.

WHEREAS the Resolution of the Governor-General in Council, dated the 31st January 1862, declares that, instead of a Judicial Commissioner for the whole Province of British Burmah, whose ordinary business can well be undertaken by the Chief Commissioner, and who, as Judge of a Special Court sitting at the Head Quarters of each Division, could not possibly dispose of the Causes arising at each place in a manner that would satisfy the suitors, or be consistent with the prompt and regular administration of Justice, there shall be established at Rangoon and Moulmein a Court to be presided over by a Barrister or Advocate of not less than five years' standing, with full powers of Civil and Criminal Jurisdiction, analogous to those now exercised by the Recorders of Prince of Wales' Island and Singapore, with the exception of the power to try cases in which European British Subjects are charged with capital offences: and whereas it is expedient to make provision for the establishment of such Court, and of a similar Court for the Town of Akyab; and also for the establishment of a Court of Small

Causes in each of the said Towns of Akyab, Rangoon, and Moulmein, and to prescribe the Procedure for the said Courts, respectively; It is enacted as follows:—

Governor-General may establish Courts for certain towns in British Burmah

I. It shall be lawful for the Governor-General in Council to establish Courts of Judicature for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah, or for any of the said Towns, which Courts, when so established, shall be called respectively, the "Court of the Recorder of Akyab," the "Court of the Recorder of Rangoon," and the "Court of the Recorder of Moulmein." Such Courts shall be Courts of Record.

Designation, appointment, &c, of Judges of such Courts.

II. The said Courts, respectively, shall be held before a Judge who shall be called "The Recorder" thereof, and who shall be appointed by the Governor-General in Council, and shall be a Barrister of not less than five years' standing. Every Recorder appointed under this Act shall hold his Office during the pleasure of the Governor-General in Council.

Declaration to be made by Recorder.

III. Previously to entering upon the execution of the duties of his Office, every Recorder appointed under this Act shall make or subscribe the following declaration before such Authority or person as the Governor-General in Council may commission to receive the same:—

"I, A. B., appointed Recorder of [ ] do solemnly declare that I will faithfully perform the duties of my Office to the best of my ability, knowledge, and judgement."

Governor-General may appoint one Recorder only, or more.

IV. The Governor-General in Council may appoint only one Recorder to be the Recorder of the said three Courts, or he may from time to time appoint a separate Recorder for any one, or for any two, of the said Courts.

If only one Recorder, how Court shall be held.

V. So long as there shall be only one Recorder of the said three Courts, such Recorder shall hold his Court at each of the said three Towns of Akyab, Rangoon, and Moulmein, at stated periods. He

shall hold his Court in Rangoon at such times as may be necessary; in Moulmein at least once in every three months; and in Akyab at least once in every four months.

Notification by Recorder, as to time and place of holding Court.

VI. The Recorder shall, on or before the 1st day of January in each and every year, or at such other convenient times as the Chief Commissioner of British Burmah shall direct, notify in the Official Gazettes of the Towns in which the Court is to be held, the days on which he intends to hold his Court at the said Towns, respectively, during the then next ensuing twelve months: and a copy of such Notification shall be stuck up in a conspicuous part of the Court Houses in the said Towns, respectively.

Procedure in case of Recorder being unable to hold Court as notified.

VII. If the Recorder shall be unable to hold his Court at the time and place fixed in any Notification issued under the last preceding Section, he shall fix another period for holding his Court at such place, and shall publish notice of the same in the same manner, so far as circumstances will permit, in which a Notification under the said Section is directed to be published.

Recorder may hold Court at other than notified times.

VIII. Notwithstanding anything in Sections VI and VII of this Act contained, it shall be lawful for the Recorder to hold his Court at times other than those notified, as provided in the said Sections, when for any good and sufficient reason it shall appear to him necessary and proper to do so.

Sections VI to VIII how to be applied when there is one Recorder for two Courts.

IX. Whenever there shall be one Recorder for any two only of the said three Courts, the provisions contained in Sections VI, VII, and VIII of this Act shall be applied, so far as the same may be applicable, in respect of the sittings to be held by such Recorder within the Towns of the Courts of which he is Recorder.

Civil Jurisdiction of Recorder.

X. The Recorders appointed under this Act shall have and exercise Civil Jurisdiction within such local limits, in the said Towns of which

they are respectively the Recorders and in the neighbourhood thereof, as may from time to time be fixed by the Chief Commissioner of British Burmah, with the approval of the Governor-General in Council; and the limits so fixed shall be published in the Official Gazettes of the said Towns. Provided that it shall be lawful for the said Chief Commissioner, with such approval as aforesaid, as often as he shall think proper, to vary or alter the limits so fixed; and, save as in this Act provided, no Court other than the Recorder's Court shall have or exercise any Civil Jurisdiction whatever, within the limits for the time being fixed as aforesaid.

Proviso as to alteration of local limits.

XI. The Recorders appointed under this Act shall receive, try, and determine suits of every description, if in the case of suits for land or other immoveable property such land or property shall be situate, or if in all other cases the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the ordinary Jurisdiction of their respective Courts. Provided that the Recorders shall not take cognizance of any suit, the cognizance of which, by the ordinary Civil Courts in British India not established by Royal Charter, is barred by any Act of Parliament, or by any Regulation or Act of the Governor-General of India in Council.

Suits cognizable by Recorders

Proviso.

XII. It shall be lawful for the Chief Commissioner to direct the transfer to any Recorder's Court, of any case which shall have been instituted in any Court in British Burmah other than a Recorder's Court. Every case so transferred shall be tried and determined by the Recorder to whose Court it is transferred, in the same manner, and under the same rules as to procedure, and in all other respects as if the Recorder had originally had Jurisdiction in the case, and the case had originally been instituted before him.

Transfer of cases from other Courts to Recorder's Court.

Such cases how to be dealt with

Rule as to trial of suits by Recorder having Jurisdiction in more than one Court.

XIII. A Recorder, who is the Recorder of more Courts than one, shall, while sitting in any one of the Courts of which he is Recorder, ordinarily try no suits except such as shall have been instituted in such Court, or shall have been transferred to it by the Chief Commissioner as hereinbefore provided: but such Recorder may, if he think proper, try any suit instituted in any other of the said Courts of which he is Recorder, if the parties thereto shall join in an application to him (which shall be in writing, signed by all the parties to the suit or their agents) so to try the same.

Seal of Courts. Use and custody of same.

XIV. A separate seal shall be made under the direction of the Governor-General in Council for each of the said Courts, and all summonses, orders, and other process issuing out of the said Courts, respectively, shall be sealed or stamped with the seal of the Court issuing the same. The said seal shall be delivered to and kept in the custody of the Recorder; but during any absence of the Recorder, or in case of the vacancy of the Office of Recorder, the same shall be delivered to and kept in the custody of the Registrar of the Court appointed as is hereinafter provided; and if there be no Registrar, then it shall be delivered to and kept in the custody of the Deputy Commissioner.

Appointment and removal of Ministerial Officers.

XV. It shall be lawful for the Recorder of any Court or Courts established under this Act, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of Justice by the said Recorder, in such Court or Courts respectively, and the due execution of the powers and authorities given to him by this Act; and every Clerk and Officer appointed as aforesaid shall be liable to dismissal by order of the Recorder of the Court to which he is appointed: provided that no person shall be removed from any Office, the salary of which is one hundred Rupees per

mensem or upwards without the sanction of the Chief Commissioner.

Licensing of Advocates, and rules regarding qualifications and admission.

XVI. No person shall be permitted to appear or act as the Advocate of any suitor in any Court held under this Act, in any action or suit, or touching any matter whatever, unless such person shall have been previously licensed by the Recorder of such Court, to act for the suitors of such Court generally, or specially for the particular occasion; and it shall be lawful for the Recorder of every Court held under this Act, to make rules for the qualifications and admission of proper persons to act as Advocates in such Court. Provided that nothing in this Section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting, on his own behalf, or on behalf of a co-suitor. Provided also that any person, who for the time being is an Advocate, Vakeel, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled without any license to act as an Advocate for any suitor in any of the said Courts; and that any person for the time being licensed to act generally in any one of the said Courts, shall without further license be also entitled to act generally in any other of the said Courts.

Saving of agent for Secretary of State, &c.

And of Advocates, &c., of High Courts.

License may be withdrawn.

XVII. The Recorder of any Court may, for any sufficient reason, withdraw or vacate any license which shall at any time be granted by such Recorder to any person, to act generally or specially as an Advocate under this Act.

Fees of Advocates, &c., subject to taxation.

XVIII. The fees to be received by any Advocate, whether general or special, licensed under this Act, or entitled to act as an Advocate for another person in any of the said Courts without a license, under Section XVI of this Act, shall at all times be subject to the control and taxation of the Recorder of the Court having Jurisdiction in the case in respect of which such fees are payable,

and no fees shall be recoverable by any Advocates except such fees as shall have been allowed by the Recorder on taxation.

Rules for service and execution of process, and table of fees for same.

XIX. It shall be lawful for the Recorder of any Court or Courts established under this Act, to make and issue rules to regulate the service and execution of the processes of the Court or Courts, within the territorial limits of his Jurisdiction, and also to settle a table of fees to be allowed to the persons employed in such service or execution, and from time to time to alter any such rule or table, and the rules so made and the tables so issued shall be used and observed in the said Court or Courts; provided that such rules and tables be not inconsistent with the provisions of any law in force, and shall, before they are issued, have received the sanction of the Chief Commissioner. All such rules and tables shall be published in the Official Gazettes of the said Towns, and shall thenceforth have the force of law until repealed or over-ruled by any Act of the Legislature, or by any rule or table subsequently issued and published with the sanction and in the manner aforesaid.

Publication of same.

Proceedings in Civil suits how to be regulated.

XX. Save as in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in any Court established under this Act, shall be regulated by Act VIII of 1859 *(the Code of Civil Procedure)*, as amended by Act XXIII of 1861, and by any other Act or Acts that may hereafter be passed for that purpose.

Law as administered in Calcutta High Court, in its Ordinary Original Civil Jurisdiction to obtain in all suits.

XXI. In all suits cognizable by any Court held under this Act, all questions as well of fact as of law or equity shall be dealt with and determined according to the law administered by the High Court of Judicature at Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction. Provided that this Section shall not apply to any case heard and determined by any Court held under this Act, in which a native of British India is a defendant, and in which

Saving of certain cases.

any question relating to marriage, inheritance, or succession shall be involved; but every such case, in so far as such question is concerned, shall be determined by the law or usage which would have been applied thereto, if such question had arisen in any other Court in British Burmah than a Court held under this Act.

In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.

XXII. If in any suit, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Recorder shall entertain any doubt, the Recorder may, either of his own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

And decree may be passed contingent thereon; but, pending receipt, execution not to issue.

XXIII. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Full bench of High Court to deal with cases referred.

XXIV. Cases referred for the opinion of the High Court shall be dealt with by a a bench of two or more Judges of that Court.

And parties may appear in person, or by Advocate, &c. Transmission of judgment of High Court, and proceeding thereupon.

XXV. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper Officer of the Court, to the Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

XXVI. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

XXVII. In all suits heard and determined by a Recorder under this Act, in which the amount or value of the suit shall exceed Rupees three thousand, and be less than Rupees ten thousand, an appeal shall lie to the High Court of Judicature at Fort William in Bengal, subject to the rules contained in the said Code of Civil Procedure regarding regular appeals.

Appeal to High Court in certain cases.

XXVIII. It shall be competent to the Recorder, if he shall think fit, to grant a new trial in any suit tried by him, if applied for within three months from the date of the decision, if the suit relate to any land or other immoveable property; and in all other cases if applied for within thirty days from the date of the decision. Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications. Provided also that, in any case in which the Recorder may think it necessary to do so, he may, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

Grant of new trial on application within given time.

And review of judgment.

Security from applicant for either.

XXIX. All cases and proceedings arising under Act XIX of 1841 *(for the protection of moveable and immoveable property against wrongful possession in cases of successions)*, Act XXXV of 1858 *(to make better provision for the care of the Estates of Lunatics not subject to the Jurisdiction of the Supreme Courts of Judicature)*, Act XL of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)* as amended by Act IX of 1861 *(to amend the law relating to Minors)*, or Act XXVII of 1860 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)*, may be

Recorder may receive and dispose of all cases under certain Acts, subject to provisions of same as to Jurisdiction.

received and disposed of by the Recorder of any Court established under this Act, subject always to all the rules and provisions as to Jurisdiction and otherwise in the said Acts contained respectively. Orders passed by the Recorder in cases arising under the said Acts shall not be open to appeal, but the parties shall be at liberty to contest such orders in a regular suit. No Court other than the Recorder's Court shall, within the local limits of the Jurisdiction of such Recorder's Court, receive or deal with any case or proceeding arising under any of the Acts mentioned in this Section.

And his orders in such cases not open to appeal.

No other Court to deal therewith, within the jurisdiction of Recorder.

XXX. For the trial of Civil suits under this Act, the Recorder may constitute one or more persons Assessor or Assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No Officer of the Recorder's Court shall be appointed an Assessor under this Section, but this prohibition shall not extend to any other public Officer.

Assessors in Civil suits.

XXXI. It shall be lawful for the Governor-General in Council to appoint, to each or any of the Recorder's Courts established under this Act, an Officer who shall be called the Registrar of the Court to which he shall be appointed.

Appointment of Registrar.

XXXII. The Registrar of the Recorder's Court shall be the Chief Ministerial Officer of the Court, and shall, subject to the provisions in the next following Section contained, receive all plaints presented to the Court; and in the absence of the Recorder, shall issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses: he shall also keep lists of all causes coming on for trial, and shall fix such days for

Duties of Registrar.

their being heard respectively, as may seem to him fit, having regard to the period appointed for the Recorder's sittings.

Procedure in case of plaint being considered defective in certain particulars.

XXXIII. If the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the particulars mentioned in Section 28, Section 29, Section 30, Section 31, or Section 32, of the Code of Civil Procedure, he shall not reject the plaint, but shall point out to the plaintiff wherein the plaint is defective, and shall, with as little delay as possible, forward the plaint to the Recorder of the Court for his orders, together with any statement which the plaintiff may think proper to make; and such plaint shall be dealt with as the Recorder shall order.

Proviso.

Provided always that, if the defect in the plaint is capable of being cured under any of the said Sections, and the plaintiff shall be willing to amend it, it shall not be necessary for the Registrar to send the plaint to the Recorder, but such amendment may thereupon be made.

Execution of decrees by Registrar.

XXXIV. The Registrar shall also receive applications for the execution of decrees passed by the Recorder of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Recorder, shall execute such decrees in the same manner as the Recorder may execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Recorder may, of his own motion, reverse or modify any such order whenever he shall think it necessary to do so.

Registrar to have powers of Small Cause Court Judge in certain cases.

XXXV. The Registrar shall have the powers of a Small Cause Court Judge in suits of the nature of those described in Act XLII of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter)*, arising within the limits of the Jurisdiction of the Court of which he is the Registrar, provided that the amount of value of the claim

shall not exceed two hundred Rupees; but he shall exercise such powers subject to the general control of the Recorder. The Governor-General in Council may invest any Registrar, appointed under this Act, with Jurisdiction to hear and determine suits of the nature cognizable by him as a Small Cause Court Judge under this Section, in which the amount or value of the claim does not exceed five hundred Rupees.

And may be invested by Governor-General with higher powers.

XXXVI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits, and execute the decrees made therein, in such manner as is prescribed in the said Act XLII of 1860; and subject to such rules, as to procedure and otherwise, in all respects, as are in the said Act contained. Provided that the Recorder, whenever he thinks proper, may transfer to his own file any suits on the file of the Registrar, and may hear and determine the same, subject to the rules as to procedure and otherwise hereinbefore mentioned.

Suits cognizable by Registrar how to be heard, &c.

Transfer from Registrar's to Recorder's File.

XXXVII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him under the last preceding Section; but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, he shall be at liberty to state a case for the opinion of the Recorder, in like manner as the Recorder may, under Section XXII of this Act, state a case for the opinion of the High Court of Judicature at Fort William in Bengal; and all the rules and provisions hereinbefore contained, relative to the stating of a case by the Recorder shall apply *mutatis mutandis* to the stating of a case by the Registrar, so far as the same are applicable.

No appeal from decision of Registrar under last Section; but in case of doubt, statement may be submitted for opinion of Recorder.

Rules applicable to such references.

XXXVIII. It shall be lawful for the Recorder to refer to the Registrar of his Court any suit, not falling within the description of suits contained in Act XLII of 1860, which shall be instituted in the Court of such Recorder, and the amount or value of the property in dispute in which shall not exceed one hundred Rupees. Every suit so referred to the Registrar shall be heard and determined, and the decree made shall be executed by him, under the same rules so to procedure and otherwise as are applicable to suits tried by the Recorder. In such suits the Registrar shall have no power to state a case to the High Court, or to the Recorder; but an appeal shall lie on questions of law and of fact from the Registrar's decision to the Recorder, under the rules of regular appeals contained in the Code of Civil Procedure. The decision on the appeal shall be final; but the Recorder shall be at liberty to state a question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, for the opinion of the High Court, in the same manner as in cases originally tried by himself.

Recorder may refer certain suits to Registrar. Rules respecting trial of same.

Reference to High Court.

XXXIX. In all suits heard and determined by a Recorder under this Act, in which the sum or matter at issue is Rupees ten thousand or upwards, or in which the judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question, to or respecting property of the value of Rupees ten thousand or upwards, an appeal shall lie to Her Majesty in Council, subject to the rules and orders for the time being in force regarding appeals to Her Majesty in Council, from decisions of the High Court of Judicature at Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction.

Appeal to Her Majesty in Council in certain cases.

XL. The Recorder shall exercise all the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the territorial limits of the Civil Jurisdiction of the Court or Courts of which he is Recorder, and

Recorder to exercise power of Court of Session, and to hold Gaol deliveries for trial of offenders.

shall, at the place or places where such Court or Courts are held, hold Gaol deliveries at convenient periods, of which due notice shall be given in the manner prescribed in Sections VI and VII of this Act, for the trial of all persons charged with offences punishable under the Indian Penal Code, who may be committed to take their trial before his Court as a Court of Session. Provided that the Recorder shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court of Fort William in Bengal. In all other cases, the commitments made within the limits of the Jurisdiction of any Recorder's Court, for offences punishable under the Indian Penal Code, shall be made to that Court.

Proviso as to European British subjects charged with offences punishable with death.

XLI. If any European Brtish subject shall be charged in British Burmah with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to take his trial before the Recorder, and shall be tried by the Recorder of the Court held within the Division of British Burmah in which either such European British subject shall have been arrested, or in which the offence with which he is charged shall have been committed; that is to say, before the Recorder at Rangoon if the arrest took place or the offence were committed in Pegu; before the Recorder at Akyab if the arrest took place or the offence were committed in Arracan; and before the Recorder at Moulmein if the arrest took place or the offence were committed in the Tenasserim Provinces.

Commitment and trial of such subject, when charged with offences other than those punishable with death.

XLII. The proceedings on trials held by the Recorder as a Court of Session under this Act shall be regulated by the Code of Criminal Procedure, and shall be subject to all the

Proceedings of Recorder as Court of Session how to be regulated.

provisions of this Act, in so far as the same may be found applicable.

Execution or commutation of sentence of death

XLIII. If on any trial, sentence of death shall be passed by the Recorder, such sentence shall not be carried into execution until it shall have been confirmed by the Chief Commissioner. It shall be lawful for the Chief Commissioner, in any case in which it shall seem proper to him so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order, &c., of Recorder in criminal case, but he may reserve points for opinion of High Court

XLIV. No appeal shall lie from any order or sentence passed by the Recorder in any Criminal case. But it shall be at the discretion of the Recorder to reserve any point or points of law for the opinion of the said High Court.

Review of case and alteration of judgment by High Court

XLV. On such point or points of law being so reserved, as in the last preceding Section mentioned, or on its being certified by the Advocate General at Fort William that, in his judgment, there is an error in the decision of a point or points of law decided by the Recorder, or that a point or points of law which has or have been decided by the said Recorder should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary, and finally determine such point or points of law; and thereupon to alter the sentence passed by the Recorder, and to pass such judgment and sentence as to the said High Court shall seem right.

Stamp duties chargeable on instruments, &c., in Recorder's Court.

XLVI. The Stamp Duties prescribed by Schedule B annexed to Act X of 1862 *(to consolidate and amend the law relating to Stamp Duties)*, for Instruments and Writings in the Sudder Court, shall be chargeable on Instruments and Writings in the Courts of the Recorders established under this Act, if the amount or value of the claim exceed one thousand Rupees, or if the case be an appeal. The foregoing limitation

as to amount shall not extend to petitions of plaint. For such petitions, whether the suit be tried by the Recorder or the Registrar of the Court, and for Certificates granted under Act XXVII of 1860, the Duty prescribed by the said Schedule B shall be chargeable. For copies of decrees in suits in which the amount or value of the claim does not exceed one thousand Rupees, as well as for copies of judgments and orders, the same Duty shall be chargeable as prescribed by the said Schedule B for copies of decrees, judgments, and orders passed or made by a Court below the Sudder Court. On Instruments and Writings in all other cases, as well in the Recorders' Courts, as in the Courts of the Registrars in cases cognizable by those Officers, on which a Duty of eight annas is prescribed by the said Schedule B, the Duty chargeable shall be eight annas.

Commissioner may sit with Recorder in any suit, and record opinion.

XLVII. The Commissioner of the Division within which the said Town of Akyab, Rangoon, or Moulmein, is situated, may sit with the Recorder in the trial and hearing of any Civil or Criminal case arising within the limits of his Division; and may record his opinion in any case in which he may so sit.

And may, in the absence of Recorder, sit in Court and exercise all powers

XLVIII. If there shall for the time being be no Recorder, or if the Recorder of any of the said Courts shall at any time, from sickness, or from being absent on leave, or other cause, be unable to attend to the duties of his Office, it shall be lawful for the Commissioner of the Town wherein such Court is situate to sit in such Court, and to exercise all the powers vested by this Act in the Recorder, but subject to all the rules, provisions, and limitations, herein prescribed and declared. Provided that no Commissioner shall act as Recorder, or exercise any authority under this Section, without the sanction of the Chief Commissioner first obtained.

Recorder to keep such registers, &c., and to submit such returns, &c., as Chief Commissioner shall prescribe.

XLIX. The Recorder shall keep such Registers, and Books and Accounts, and submit to the Chief Commissioner such statements and returns of the work done in his Court, on the Civil and Criminal sides, as may be pre-

scribed by the said Chief Commissioner, with the approval of the Governor-General in Council. The Recorder shall also comply with such requisitions as may be made by the Governor-General in Council, or by the Chief Commissioner, for records.

Interpretation of "Barrister."

L. The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland; or members of the Faculty of Advocates in Scotland; or Advocates of any High Court, or Colonial Supreme Court, authorized by Royal Charter to admit Advocates.

WORKS OF PUBLIC UTILITY,—COMPANIES ACT.

ACT No. XXII OF 1863.

(Received the assent of the G. G. on the 10th March 1863.)

Recites expediency of enabling Government to take land for works of public utility for private companies.

1. Interprets words of "number;" "gender;" "the work;" "local Government;" "Collector;" "promotor;" "work under this Act;" "owners;" "companies;" "lands;" "conditions;" "toll."

2. Defines what shall be works of public utility, and that works may be declared to be so, &c.

3. Authorizes the G. G. in C. to vest in certain officers the powers under this Act.

AS TO PRELIMINARY PROCEEDINGS.

4—5. Directs how promoters of works under this Act shall proceed at first; and (5) that Government may reject the application or call for further information.

6—8. Certificate may be granted for making preliminary survey, with terms specified; but (7) caution money to be previously deposited to meet claims of compensation for damage; and (8) certificate may be cancelled if powers under it are abused.

9—10. Directs application under Act to be published in Gazette; and (10) in the district by the Collector.

11—14. Provides for provisional registration of the work projected; and (12) if it be a branch railway, likely to form a junction with an existing railway, time shall be given for opposition to it; and (13) Government may appoint a commission of its own officers to inquire into the general object, &c., of the work; and (14) upon report of the committee shall decide if the work may be provisionally registered.

15—18 Empowers the Government to impose conditions on promoters; and (16) to determine for what period, not less than six months, provisional registry shall be in force; and when promoters may claim definitive registry; previous to which (17) caution money shall be deposited; and (18) a formal agreement entered into, which shall be published in Gazette.

19. Works undertaken before this Act may be registered under Act.

20. Empowers Government to apply, land, &c., in its possession for public works under this Act.

21. Authorizes local Government to vary conditions agreed to under Section 15.

22—24. Empowers local Government, after definitive registration, to issue certificate for surveys, &c.; and (23) to appoint Commissioners to examine plans and maps; who (24) shall proceed in manner prescribed, and in case of dispute with promoters, Government shall decide.

25. Authorizes Government to extend time for giving notices, &c.

As to the Taking Title and Payment for Lands.

26—27. Notification to be made after the boundary of the lands required is ascertained, to the effect that it will be taken; and (27) the works are then to proceed according to the declared powers, &c.

28. Provides for extension of existing public works.

29. Extends the Act to the taking of land for temporary purposes.

30. Empowers Government to dispose of land taken under the Act in excess of what is required for public works.

31. Directs when the promoters shall be put in possession.

32—33. Expenses incurred by Government under the Act to be paid by promoters, by deduction out of caution money; and (33) promoters are to be liable for all damage done, amount to be ascertained by Collector.

As to Public Use of Works.

34. Works to be available for use of the public, and Courts of Justice to take judicial notice of published conditions.

35. Empowers the proprietors to carry out the conditions, as to levy of tolls, &c.

As to Construction and Inspection of Works.

36—37. Authorizes Government to appoint inspectors over works; and (37) to suspend works on grounds specified, if apparent on report.

38—39. Empowers local Government, on report of Inspector, to require the construction of subsidiary works, &c.; not being (39) at variance with original special conditions.

40. Obliges owners of railways of the guage of 5 feet 6 inches under this Act to construct all works, &c., in conformity with that guage.

41. Extends the provisions of Act XVIII, 1854, to Railways under this Act, except as to Section 20, which may be modified, &c.

42 Reserves to Local Government the right of deciding, in case of doubt, as to necessity of constructing, &c., works to ensure the public safety, &c.

43—44. Provides for the compulsory junction of old lines with new; and (44) empowers local Government to decide in case of difference between owners of lines joined or used in common.

AS TO MAKING BYE-LAWS.

45—47. Empowers owners of works under this Act to make bye-laws &c., subject to approval of local Government; such bye-laws &c., (46) to be notified in Gazette; and (47) in case of railways &c., to conform with Act XVIII, 1854.

AS TO LIEN OF GOVERNMENT ON WORK.

48. Gives the Government a lien on works under this Act, for claims, and provides against seizure of works for debt of owners without consent of Government.

49. Provides for termination of contracts and re-entering possession of lands.

AS TO MINES.

50—51. Provision as to property in mines underlying public works: and (51) as to working such mines.

AS TO OFFENCES AND PENALTIES.

52. Applies Penal Code to certain offences under this Act.

53. Applies Act XVIII, 1854, to the recovery of penalties under Bye-Laws.

An Act to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken.

Preamble.

WHEREAS it is expedient to enable the Government to take land for the construction of works of public utility by private persons or Companies; and whereas it is proper, at the same time, to protect the rights of all persons from whom land shall be so taken, or be proposed to be taken; and also to determine the manner in which such works may be undertaken, and shall be managed after their construction; as well as to secure to the public, under suitable regulations, the use of works constructed on land so taken; It is enacted as follows:—

AS TO THE CONSTRUCTION OF THE ACT.

Interpretation.

I. The following words and expressions shall have the several meanings hereby assigned to them, unless when a contrary intention appears from the context.

Words in the singular number shall include the plural, and words in the plural shall include the singular.

Number.

Gender.

Words importing the masculine gender shall include females.

"The Work."

The words "the Work" shall signify the public work proposed to be undertaken.

"Local Government."

The words "Local Government" shall mean the head of the Executive Administration of the Province in which the public work is proposed to be constructed.

"The Collector."

The words "the Collector" shall include any Officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated.

"The Promoters."

The words "the Promoters" shall mean the person or persons who propose to construct the work, or are empowered to construct it, whether a single person or a Company.

"Work under this Act."

The words "Work under this Act" shall imply a work definitively registered as hereinafter provided by this Act.

"The Owners."

"The Company."

The words "the Owners" or "the Company" shall signify the parties in charge of any public work under this Act, or referred to in this Act, whether as promoters, proprietors, lessees, agents, assignees, or otherwise, and whether a single person or a Company.

"Lands."

The word "Lands" shall include messuages, lands, tenements, and hereditaments, of any tenure.

"Conditions."

The word "Conditions" shall signify the special conditions of agreement, between the promoters or owners of a work under this Act and the Government, referred to in Section XV of this Act.

"Toll."

The word "Toll" shall include any rate, or charge, or other payment, to be made for any use of a work under this Act, or for any

service performed in connection with the use of any such work.

What to be deemed works of public utility.

II. A work of public utility within this Act shall be held to mean any bridge, road, railroad, tramroad, canal for irrigation or navigation, work for the improvement of a river or harbour, dock, quay, jetty, drainage work, or electric telegraph; also all works subsidiary to any such work. It shall be lawful for the Governor-General in Council, from time to time, by a declaration to be made to that effect, and published in the Official Gazette, to order that any other class of works, or any particular work other than those named above, shall be included among works of public utility within this Act.

Governor-General may vest certain Officers with powers conferred by this Act on local Government.

III. It shall be lawful for the Governor-General of India in Council, to vest the principal Executive Officer of any territory under the immediate administration of the Governor-General in Council, with any or all of the powers vested by this Act in the local Government of such territory.

AS TO THE PRELIMINARY PROCEEDINGS TO BE TAKEN, AND THE REGISTRATION OF WORKS.

Promoters to make preliminary application, accompanied by statement.

IV. The promoters of any work of public utility, who shall desire to proceed under this Act, shall make a preliminary application in writing to the local Government, explaining the general object and nature of the work, and its intended locality. Every such application shall further be accompanied by a statement of the estimated cost of the construction of the said work, and the mode in which the promoters propose to provide the funds for constructing, maintaining, and working, the same.

Local Government may reject application, or call for further information, &c.

V. If the local Government shall not be satisfied with any such application or statement, it may reject it; or it may call on the promoters to supply any further information, or to amend such application or statement, on any point on which

such further information or amendment shall to the local Government seem requisite.

Issue of certificate authorizing preliminary survey.

VI. If the promoters shall desire to undertake any preliminary survey on account of the proposed work, before preparing and submitting the statement aforesaid, they shall declare the same in their preliminary application; and it shall be lawful for the local Government, if satisfied of the expediency of permitting such survey, to issue a certificate authorizing the same.

Terms of certificate.

Such certificate shall declare the names of the promoters entitled to use it; the time for which it shall be in force, and the District or Districts or locality for which it shall be valid; and shall contain such further regulations, for the guidance of the persons using the said certificate, as to the local Government shall seem fit.

Authority conveyed thereby.

The promoters named in such certificate, and such other persons as the promoters shall name, in a list to be furnished to the Chief Officer charged with the Executive Administration of each District in which the proposed work is to be constructed, shall be authorized to enter upon any lands, in the manner and for the time declared in such certificate, to undertake any survey or other investigation necessary for the proper prosecution of the proposed work; and while acting under the authority given in the said certificate, such promoters and other persons aforesaid shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code.

Proviso limiting authority.

Provided that such promoters and other persons shall not be authorized to enter any house, or building, or the curtilage of any house, or enclosed garden, without the assent of the occupier; or to cut down any tree, or otherwise injure or destroy any property. Provided also that such promoters and other persons aforesaid shall, while acting under the authority of such certificate, be liable as public servants, for any offence described in Chapter IX of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

Liability for offences.

VII. It shall be lawful for the local Government, before issuing a certificate as aforesaid, to call on the promoters to deposit, as caution money, such sum and in such manner, as the Local Government shall in each case determine; to be applied by the local Government to make good any damage done in the course of such survey by the promoters or other persons using the said certificate. The promoters shall be entitled, on their demand, to receive back, after the expiry of such certificate, and after the payment of any claim for damage which shall have been proved to the satisfaction of the local Government, any surplus remaining in the hands of such Government.

Deposit of caution money may be required before issue of certificate.

Refund of surplus.

VIII. It shall be lawful for the local Government, at any time prior to the provisional registration of a public work under this Act as hereinafter provided, to cancel a certificate granted under Section VI of this Act, if it shall appear to such local Government that the powers granted by such certificate have been abused, or for any other sufficient reason.

Cancelment of certificate

IX. The promoters shall, at the time when they submit their preliminary application to the local Government, publish the same, and if they so desire, the statement that accompanies it, in the Official Gazette, and also, if possible, in at least two Newspapers (one of which shall be in English) in the Province in which the work is proposed to be executed; and shall repeat such publication, at least six times, within a period of two months from the date of submission of such application to the local Government: the promoters shall further cause to be delivered, with all reasonable despatch, and within a period not exceeding two months, to the Collector of every District in which any part of such work is proposed to be constructed, or such other Officer as the local Government shall from time to time direct, six copies of such application, with a faithful translation of the same into the

Publication of preliminary application, &c., by promoters, and supply of copies to Collectors, &c.

vernacular language of the District; and shall in like manner publish from time to time and deliver as aforesaid, copies and translations of any amended applications submitted to the local Government.

Amended applications.

X. The Collector or other Officer as aforesaid shall, on receipt of the preliminary application, publish the same in English, and in the Vernacular language of the District, in the localities where the work is proposed to be constructed, in such manner as to him seems best.

Publication by Collector.

XI. At any time not sooner than four months after the receipt of the said application, or if the application be amended, then within four months after the receipt of such amended application, the local Government, on being satisfied by the promoters that the above conditions have been complied with, shall be authorized to consider finally such application, and any objections that shall have been raised against the construction of the proposed work; and to declare whether the said work may be provisionally registered under this Act or not.

Local Government to decide, after stated interval, whether work may be provisionally registered or not.

XII. Before declaring that any work may be provisionally registered under this Act, being a Railway, or tramway, in continuation of or forming a branch of any existing line; or being a line that might reasonably be expected to be united with any existing Railway, either as a continuation, or a branch; and at the same time being at some one point within fifty miles distance of such existing Railway, the local Government shall afford, to the owners of such existing line, reasonable time and opportunity to declare whether they offer any opposition to the registration of the proposed line; and on a full consideration of such opposition, and of the application of the promoters, and of any objections aforesaid, and of the relative public advantages of all proposals made in the matter, the local Government shall be authorized to declare its decision on the said application.

And before deciding, in case of continuation or branch Railway, or tramway, to allow time for opposition, &c.

And may also appoint a commission to enquire into particulars.

XIII. Previously to deciding that the said work shall be provisionally registered under this Act, it shall be lawful for the local Government, if it shall think fit, to appoint a Commission of one or more persons, who may be Government Officers, to enquire into the general object and nature of the said work; its intended locality, and probable utility; its estimated cost; the grounds of any opposition to the said work; and any other matter connected with the said work, on which such local Government shall desire to be satisfied. For the purposes of such enquiry, such Commission shall have power to take evidence; and for obtaining the attendance, and for the examination of witnesses, may exercise the powers of a Civil Court under the Code of Civil Procedure.

Powers of Commission.

On report of Commission, local Government to decide as to registry.

XIV. On the receipt of the Report of the Commission appointed under the last preceding Section, the local Government shall decide if the said work shall be provisionally registered.

And to prescribe conditions to be imposed on promoters, before declaring decision.

XV. Before declaring its decision as aforesaid, the local Government shall, subject to such general or special instructions as the Governor-General of India in Council shall, from time to time, lay down, prescribe the conditions which such local Government shall consider it necessary to impose on the promoters, having regard to the special circumstances of each case, in respect to the provision and payment of the price of the land for the proposed work; the construction, maintenance, or working of the same; the regulation of the use of the work, as regards the security and convenience of the public; and such other matters as to the local Government may from time to time seem right; and the local Government shall inform the promoters of such conditions.

Duration of provisional registry, and right to have it made definitive.

XVI. The local Government, on causing a work to be provisionally registered under this Act, shall determine for what period, being not less than six months, such registry

shall be in force. And at any time within such period, the promoters may claim to have the registry made definitive as hereinafter provided.

Promoters to deposit caution money before definitive registry.

XVII. Unless for any cause the local Government shall otherwise determine, the promoters, before they are entitled to claim the definitive registry of the proposed work shall deposit with the Government, in such manner as shall be approved by the local Government, a sum to be fixed in each case by the local Government, but not exceednig ten per cent. on the whole estimated cost of the said work, as caution money; to be disposed of in the manner agreed in the said conditions unless it be otherwise dealt with as hereinafter provided. And any sum remaining in the hands of the local Government, from any caution money lodged under Section VII of this Act, shall be held to be a payment in part of the caution money required under this Section.

Also to complete agreement, under conditions.

XVIII. The promoters, before such claim for definitive registry shall be admitted, shall further complete an agreement with the Secretary of State for India in Council, through the Government, under the conditions aforesaid, or under such other conditions as may be agreed between the said promoters and the local Government. And thereupon the local Government shall cause such agreement, with the conditions thereof, to be published in the Official Gazette; and shall declare that the work is definitively registered as a public work under this Act.

Publication of agreement, and declaration of registry.

Definitive registry of work, undertaken under agreement entered into before passing of Act.

XIX. It shall be lawful for the local Government, on the application of the promoters of any public work under this Act, to cause to be definitively registered under this Act, any public work undertaken by such promoters, under an agreement entered into previously to the passing of this Act with the Secretary of State, or the Government of India, or any local Government, as though such work had been pro-

posed to be undertaken under the provisions of this Act hereinbefore contained. Provided that at the time of so registering any work, the local Government shall cause the said contract to be published in the Official Gazette, with all the conditions attaching thereto; and declare that the said work has been so registered definitively.

Proviso.

XX. It shall be lawful for the local Government to apply any land in its lawful possession, also any public road or place, for the purposes of any public work under this Act, to be constructed at the expense and risk of the promoters of such work. Provided that every such work shall be definitively registered accordingly, and that the conditions under which such work is undertaken shall be published in the Official Gazette; also that the prosecution and construction of every such work shall be subject to the provisions of Section XII of this Act.

Local Government may apply land, &c., for purposes of public work under Act.

Proviso.

XXI. The local Government may, from time to time, with the assent of the owners of any work under this Act, vary the conditions to be agreed to under Section XV of this Act. Provided that such variation shall forthwith be published in the Official Gazette; and that after such publication, the amended conditions shall be in force in supersession of those first made.

Local Government may, with consent, vary conditions.

Proviso.

XXII. After the definitive registry of any work under this Act, it shall be lawful for the local Government, from time to time, in such wise as to it shall appear fit, to issue certificates to authorize the promoters, their servants, and agents, to enter upon any lands, and to undertake such surveys or levels, or other examinations as may be necessary for the proper prosecution of the said work; also to dig and bore into the sub-soil, and to indicate the intended boundaries of the land to be taken, and the positions of the proposed works, by

After definitive registry, local Government may issue certificate, authorizing surveys, &c.

suitable land-marks; and to perform all other necessary preliminary acts of the like nature: and such certificates shall declare the names of the persons entitled to use them, the time for which they shall be in force, and the Districts or locality, for which they shall be valid; and shall contain such further regulations, for the guidance of the persons using them, as to the local Government shall seem fit. And while acting under the authority given in the said certificate, such persons shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code. Provided, however, that such persons shall not enter any house or building, or the curtilage of any house, or enclosed garden, without giving twenty-four hours' notice, or without the assent of the occupier thereof; nor shall they cut down any tree, or otherwise injure or destroy any property, unless the same be essentially necessary. Provided also, that such persons, while acting under the authority of such certificate, shall be liable as public servants, for any offences described in Chapter IX of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

Terms of certificate.

Proviso limiting authority.

Liability for offences.

XXIII. The promoters shall, on the completion of the necessary surveys and the like, submit to the local Government such drawings, maps, and plans, of the proposed work, as well as of the land required for it, as the local Government shall in each case require. And thereupon the local Government shall appoint one or more Commissioners, who may be Government Officers, to examine the said drawings, maps, and plans; and to determine finally, in concert with the promoters or their agents, all matters of detail in respect of the exact position of the work, or of the parts thereof, as well as the boundaries of the land to be taken for the said work; and shall notify such appointment in the Official Gazette; and shall cause such Notification to be published in the District where the work is pro-

On completion of surveys, &c., promoters to submit drawings, &c.

Appointment of Commissioners to examine same, and settle details.

posed to be undertaken, in such manner as shall seem best to the local Government.

Commissioners how to proceed.

XXIV. The Commissioners appointed under the last preceding Section shall proceed at any time, but not sooner than thirty days after such Notification, to settle, in concert with the promoters or their agents, the exact position of the work, or of the parts thereof; and thereafter, with all practicable despatch, to examine the boundaries of the land proposed to be taken for the work:

May call for variation of project, &c.

and the said Commissioners may call upon the promoters to make any variation in their project, and in the position of the works, or any part of them, and in the boundaries of the land proposed to be taken, that may to the said Commissioners seem necessary, to secure the safety or convenience of the public, or to prevent any undue interference with private property, or for any other reasonable cause: and any such variation, if agreed to by the promoters shall thereon be considered to be finally adopted:

Provisions for case of promoters not agreeing thereto.

but if the promoters shall not agree, the question in dispute shall be submitted to the locla Government, and the decision of the local Government shall be final; provided that the promoters shall not be bound to carry out the proposed work, if any variations be insisted upon by the local Government, to which the promoters will not assent.

Extension of periods allowed for notices, &c.

XXV. The local Government shall be authorised to extend the periods allowed for giving any notices, or for performing any acts, required under the foregoing Sections, as from time to time may seem to it proper.

AS TO THE TAKING LANDS, THE TITLE THEREIN, AND THE PAYMENT THEREFOR.

On settlement of boundaries, &c., local Government to issue declaration as to land being required.

XXVI. When the boundaries of the land required for the work shall have been settled as aforesaid, and the promoters shall have caused the said land to be measured, and suitable land-plans to be prepared of the same, the

local Government shall cause a declaration to be made, under the signature of a Secretary to such Government, or some Officer duly authorised to certify the orders of the local Government, that the land aforesaid is required for the said work; and such declaration shall be conclusive that the land may be taken under this Act. After making such declaration, the local Government may proceed to take any such land, as though it had been required to be taken at the public expense, and for a public purpose; and as though a declaration had been made as required under Act VI of 1857 *for the acquisition of land for public purposes.*

And may thereafter proceed to take the same.

XXVII. The boundaries, as determined by the Commissioners, and the plans and measurements aforesaid, of the said land, when verified and found to be correct, or when duly corrected by the Collector, or other Officer, appointed to proceed under the said Act VI of 1857, shall be held to be the boundaries, plans, and measurements, required under Section IV of the said Act, so far as the said lands are concerned.

Rule as to boundaries, plans, and measurements.

XXVIII. If at any time land shall be required for any necessary or reasonable extension of, or addition to, any work under this Act, it shall be lawful for the local Government to make all requisite declarations for the purpose of obtaining such land under this Act, after such and only such of the preliminary proceedings and enquiries, hereinbefore required, as to the local Government shall in each case seem sufficient for the protection of the rights of the public, and of individuals concerned. Provided that nothing shall be done contrary to the provisions of Section XII of this Act; and that all proceedings for the actual taking possession of the land shall be conducted in accordance with the provisions of the said Act VI of 1857.

Preliminary proceedings and declaration by local Government, as to land required for extension of, or addition to, work under Act.

Proviso.

XXIX. Land may be taken under this Act for a temporary purpose, in like manner as under the said Act VI of 1857.

Taking land for temporary purpose.

XXX. All land taken under this Act shall vest absolutely in the local Government, as though it had been taken for a public purpose under the said Act VI of 1857; and it shall be lawful for the local Government to dispose of any land taken under this Act, the whole or any part of which shall not be required for the purpose for which it was taken, in any manner that it may think fit. The local Government alone shall be responsible for the payment of all claims on account of such land, to all persons whatever; and the promoters shall in no wise be responsible for any such payment, otherwise than to the local Government; and then only as is herein declared and provided, and as shall be specially agreed in the conditions aforesaid.

Right, powers, and responsibilities of local Government, as to land taken under Act.

XXXI. When all the conditions as aforesaid, applicable to the transfer of the land to the promoters, shall have been fully complied with, and not till then, the Government shall cause the promoters to be placed in possession of such land, in accordance with such conditions. The title of the local Government, or of the promoters, to such land, shall not be liable to be questioned on account of any informality in any proceeding taken under this Act.

Promoters when to be placed in possession of land.

XXXII. All expenses attending the proceedings of the Commissioners to be appointed under Section XXIII of this Act, and all expenses incurred by the local Government in taking up the land required for the promoters under the said Act VI of 1857, shall be paid by the said promoters, unless otherwise specially agreed. The local Government shall determine the sum due on account of such expenses, and shall be authorized to deduct such amount from any sum lodged as caution money as aforesaid, if it be not otherwise paid by the promoters; and any sum remaining unpaid, both as aforesaid, and on account of land or compensation, for which the promoters are liable under the said conditions, may, on the order of the local

Expenses, to be paid by promoters.

Amount of same how to be determined and recovered.

Government to that effect, be levied by distress and sale on the said promoters, in the manner provided for distress and sale under Civil process.

Liability of promoters for damage done in preliminary operations.

Provision for satisfaction of claims on account of damage.

XXXIII. The promoters shall further be liable for all damage done in any of their preliminary operations, and shall duly satisfy and pay all claims of this description; and if, at the time of taking possession of the land required for the promoters, it shall appear that any such claim remains unsatisfied, the Collector, or other Officer, acting under the said Act VI of 1857 in respect of such land, shall be authorized to determine all such claims summarily, as though they had been claims arising under the said Act; and all payments on account of such claims shall be made good by the promoters as under the last preceding Section.

AS TO THE PUBLIC USE OF WORKS.

Works under Act how far available for public use.

XXXIV. Every work under this Act shall be available for the use of the public in accordance with, and to the extent provided by, the conditions aforesaid, or any Act at the time being in force, but not otherwise; and after the publication of the condition relating to any such works, in the Official Gazette, all Courts may take judicial notice of the same; and it shall be lawful for any person whatsoever to sue the owners of such work, for any damage he may incur by reason of any neglect of the said conditions, by the said owners, in respect of any such public use of such work as though such person had been a party to the said conditions.

Courts may take cognizance of conditions relating to same, and owners may be sued for damage resulting from neglect.

Powers of owners as to tolls for use of their works.

XXXV. The owners of any work under this Act shall be authorized to levy such tolls, in such manner, as shall be fixed in accordance with the conditions aforesaid; also to refuse the use of such work, and to refuse to perform any service in connec-

tion therewith, unless such tolls shall be paid in the manner fixed aforesaid; as well as to detain any thing or animal on which such tolls shall be due, and to sell the same, if the said tolls shall remain unpaid after a reasonable time has been allowed to elapse for the payment of the same.

Proviso.

Provided that no such tolls shall be demanded or taken at any place, unless proper tables and lists of such tolls be exhibited at such place, in the manner fixed as aforesaid.

AS TO THE CONSTRUCTION OF THE WORKS, AND THE INSPECTION OF THE SAME.

Inspection of works.

XXXVI. The local Government may appoint Inspectors, to inspect any work under this Act, also all things appertaining thereto, and to the working of the same; but not books or documents, otherwise than as shall be provided in the conditions aforesaid. The owners of such work, and all persons authorized by them to use the same in connection with any public use of the said work, and their servants and agents, shall be bound to afford to such Inspectors all reasonable facility for their inspection, and all such information as may be reasonably required by them.

If report of Inspector show cause, local Government may order use of work to be suspended until defects are remedied.

XXXVII. If it appear to the local Government, upon the report of any Inspector, that the use of any work under this Act cannot be continued without danger to the public, or to the persons employed thereon; or that rules, adequate to the protection of the public under the provisions of this Act, have not been framed and put in force; or that the conditions agreed upon under Section XV of this Act have not been carried out, the local Government may order that all defects shall be made good within a reasonable specified time; and in default of the owners of such work complying with such order, within such time, or such further time as the local Government shall appoint, the local Government shall be empowered to direct that the use of such work shall be suspended, until

the defects aforesaid shall be remedied to the satisfaction of the local Government.

Local Government may direct construction of subsidiary works.

XXXVIII. The local Government may, at any time, on the report of an Inspector during the construction of any work under this Act, direct the promoters to construct, in connection therewith, such culverts, bridges, tunnels, drains, or other works, as may be considered by the local Government to be necessary, to continue to the public any roads, or rights of way, or easements, or the use of any water theretofore available; and to make due provision for the irrigation and drainage of the country, so as to prevent the same from being impeded, or unnecessarily altered, by the construction of the said work. If default be made in complying with any directions given under the provisions of this Section, the local Government may order the prosecution of the work to be stopped, until such directions shall be complied with to the satisfaction of the local Government.

And in default of compliance, may stop work.

Saving as to matters at variance with special conditions.

XXXIX. Nothing in the last preceding Section shall be construed to render the promoters liable to construct any work, or to undertake any thing, at variance with the special conditions of agreement under Section XV of this Act.

Fixed structures, &c., on Railway of certain guage, to be of standard dimensions.

XL. The owners of every Railway under this Act, being of the guage of five feet six inches, shall be bound, unless specially exempted by the Governor-General of India in Council, to erect all the fixed structures, and to construct all the rolling stock in conformity with the standard dimensions determined in that behalf from time to time by the Governor-General of India in Council; and it shall be lawful for the local Government to order the said owners to make good all defects in such structures, or rolling stock, and to suspend their use until such defects shall be made good to the satisfaction of the local Government.

XLI. The provisions of Act XVIII of 1854 *(relating to Railways in India)*, shall apply to all Railways under this Act; provided that, in respect of such Railways, the Local Government shall be authorized to determine, from time to time, the extent to which fences shall be constructed under Section XX of the said Act XVIII of 1854, and that the owners of such Railways shall not be liable to maintain fences, under the said Section, otherwise than as shall be so determined.

Act XVIII of 1854 applicable to Railways under this Act.

Proviso as to fences.

XLII. In case any doubt shall at any time arise, as to the necessity for constructing or altering any work, to ensure the safety of the public, or to provide for established public rights of way, or other public rights of any sort, in connection with any work under this Act, the decision of the local Government on such subject shall be final, and shall not be liable to be called in question in any Court of Justice.

Decision of local Government on questions concerning public safety, &c.

XLIII. If the owners of a Railway under this Act shall desire to form a connection with any existing Railway of the same guage, the owners of the new line shall be authorized to call on the owners of the old line to effect the junction; and if the owners of the old line shall not proceed to effect the junction within a reasonable time, the local Government, on being satisfied that the junction may be made with safety to the public, and without injury to the existing Railway, or detriment to the traffic thereon, may authorize the owners of the proposed line to form the junction, and to do all necessary acts in that behalf, and to lay down such additional lines of rails, points, and crossings, as may be necessary for the purpose, at such time and in such manner as the local Government shall direct. Provided that, if the junction be effected by the owners of the previously existing Railway, the expense of forming the junction, of supplying all necessary works, and of keeping in repair and

Provision as to junction of Railway under Act with pre-existing line.

As to expenses.

renewing the same, shall be paid by the owners of the new line.

Local Government to determine differences between owners of lines joined, connected, or used in common.

XLIV. If any difference shall arise as to the terms on which the traffic of a branch or junction line of Railway under this Act shall pass over or upon any other line with which it shall be connected; or as to the manner and times of conducting the traffic, or of regulating the same, over the two lines, or either of them; or as to any matter touching any line under this Act, used in common by two or more Companies, the local Govenment shall be authorized, on the application of either or any one of the said Companies, to hear and determine all such differences; and any order given by the local Government in such a case shall be final and binding on all parties. Provided that no order shall be so given at variance with any condition of any agreement between the Government and any of the said Companies, that shall be applicable to the said lines of Railway.

Proviso.

AS TO THE MAKING OF BYE-LAWS.

Power of owners to make Bye-Laws and Regulations.

XLV. It shall be lawful for the owners of any work under this Act, to make Bye-Laws and Regulations for the guidance of their servants and agents, and of persons employed by them, and for the maintenance of order in the use of such work; and to provide for the safety and convenience of the public or of the persons employed on such work: and all such Bye-Laws and Regulations shall be subject to the approval of the local Government; and when so approved all Courts and Magistrates shall take judicial notice of the same; and the local Government shall be authorized to cause any alterations to be made in the Bye-Laws and Regulations, so made and approved, as to the local Government shall from time to time seem proper. Provided that such Bye-Laws and Regulations be not repugnant to any

Subject to approval and alteration.

Proviso.

Law in force in the British Territories in India; and that no penalty shall be attached to the infringement of any such Bye-Law or Regulation, exceeding a fine of fifty Rupees.

Publication of Bye-Laws, and notification of substance of same.

XLVI. Such Bye-Laws and Regulations affecting the public shall be published, and the substance of them shall be notified, in such places on the said work, and in such manner, as the local Government shall from time to time approve or direct; and no penalty shall be recoverable under such Bye-Laws or Regulations, unless the same shall have been published and kept published as aforesaid.

Provision as to Bye-Laws in the case of a Railway under Act, of 5½ feet guage.

XLVII. In the case of a Railway under this Act, being of the guage of five feet and six inches, it is further provided that the Bye-Laws and Regulations shall, unless the Governor-General of India in Council shall otherwise permit, conform in every respect to the Regulations for Railway Companies under the said Act XVIII of 1854.

AS TO THE LIEN OF THE GOVERNMENT ON ANY WORK.

Lands for work under Act, and fixtures thereon, not liable to seizure for debt, nor alienable by promoters, without consent of local Government.

XLVIII. No lands taken or supplied by Government for any work under this Act; no tree, building, or structure standing on such lands; no machinery nor permanent way fixed to the soil on such lands; nor anything whatsoever on which the local Government shall be entitled to re-enter, or of which it shall be entitled to take possession, without payment, on the determination from any cause of the agreement between the local Government and the promoters, under the conditions aforesaid, shall, without the consent of the local Government, be liable to be seized or applied in satisfaction of any debts or liabilities of any sort of the promoters; nor, without such consent, shall the promoters alienate the same, or any part thereof, in any way not provided for, or consonant with such agreement or conditions.

Right of local Government to terminate contracts with promoters in certain cases.

And to re-enter and take possession of lands, &c.

Saving of moveable property in certain cases.

Proviso.

XLIX. If the owners of a work under this Act shall voluntarily determine to wind up their affairs; or shall be so directed by an order of Court; or shall abandon or determine to abandon such work; or shall commit an act of Bankruptcy or Insolvency; it shall be lawful for the local Government thereupon to terminate all contracts then existing between it and the promoters, in respect of such work; and to re-enter upon, and take possession of, all things whatsoever to which the local Government shall be so entitled, under the conditions of such contracts; also of all lands taken at the public expense, or supplied to the said promoters free of cost; together with all trees, buildings, and structures, standing on such lands; as well as all machinery and permanent way fixed to the soil on such lands. Provided that nothing shall be so taken which shall be expressly excluded from such liability under the conditions aforesaid. But the local Government shall be bound to surrender, to a lawful claimant, all moveable property of which it shall at any time obtain possession from the promoters otherwise than by purchase, which shall not have been fully paid for by the promoters; or in lieu of such surrender, if the local Government shall so determine, to satisfy all just outstanding claims on account of such property: provided that no such surrender shall be obligatory, and no such claim shall be entertained, in respect of any thing that shall have been delivered to the said promoters more than twelve months before the date of such surrender being required, or of such claim being made known to the local Government.

AS TO MINES NEAR ANY WORK.

Provision as to mines lying under land taken under Act.

L. Whenever land shall be taken under this Act for the construction of any work, the taking thereof shall not be held to convey, or include, the right to any mine of coal, or other minerals, lying under such land; except only such part thereof as shall be necessary to be dug or carried away or used in the

construction of the works, unless compensation for the same shall have been expressly allowed in the award made in favor of the persons interested in the land.

And to working of mines under or near work under Act.

LI. If the owner, lessee, or occupier, of any mine of coal, or of any other mineral lying immediately under any work under this Act, or within forty yards therefrom, shall work the same, it shall be competent to the local Government, on the application of the promoters of such work, to require such person to abandon such working; or so to work the same as not to endamage the said work, and to construct the works necessary to make it safe. Provided that compensation shall be awarded to such owner, lessee, or occupier, in the manner provided for in the said Act VI of 1857, for any loss sustained by him from being compelled to abandon or alter his mode of working the mine; and also for any necessary works constructed by him (when so required as aforesaid) in order to prevent damage to the said work; but all damage or loss to the promoters, arising from any improper working of such mines, shall be at the risk of the owners, lessees, or occupiers, of the said mines; and shall be made good by them.

Proviso as to compensation.

AS TO OFFENCES AND THE RECOVERY OF PENALTIES.

Certain offences punishable under Penal Code.

LII. Whoever shall obstruct, or commit any contempt of the lawful authority of, any public servant in the discharge of any function, or in the performance of any thing undertaken, under this Act; or shall commit mischief by destroying, defacing, or removing, any land-mark fixed by the authority of any such public servant, shall be punishable under the provisions of the Indian Penal Code.

Recovery of penalties for offences under Bye-Laws.

LIII. All penalties for offences under the Bye-Laws and Regulations aforesaid, shall be recoverable in the manner provided for offences punishable by fine only, in the said Act

XVIII of 1854.

WASTE LANDS.

ACT No. XXIII OF 1863.

(Received the assent of the G. G. on the 10th March 1863.)

Recites expediency of making special provision for adjudication of claims to waste lands.

1—6. Gives Collector, &c, power to enquire into grounds of claim to waste lands; and (2) prescribes a procedure for him; and (3) pending enquiry sale shall be suspended; and (4) be stopped if found just; and (5) after order to stop sale shall serve claimant with copy of order, and report, &c., and Board shall decide on report.

7—8. Provides for special court for trying claims to waste lands; and (8) gives to such courts exclusive cognizance.

9—13. Directs where such courts shall be held; and (10) who shall be plaintiff and who defendant; and (11) that proceedings shall be regulated by Civil Code; and (12) directs day to be fixed for hearing; and (13) mode of proceeding on hearing.

14—17. Directs that there shall be neither appeal nor revision; but (15) case may be raised for opinion of High Court; and (16) in case of reference to High Court, court of claims may proceed, and how; which court (17) shall keep the record of cases disposed of by it.

18—23. Limits time for bringing claims, &c., to 3 years; and (19) entitles claimant, if he establishes claim, not to the land, but to compensation, from Government, &c.; (20) or value according to Act VI, 1857; and (21) such compensation or value to operate as full satisfaction: but (22) Government may award compensation notwithstanding limitation of time; and (23) may in specified case give full value to claimant.

24. Interprets words of number and gender.

An Act to provide for the adjudication of claims to waste lands.

Preamble.

WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows:—

Provision for inquiry into claims to land, or objections to sale of same.

I. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Col-

lector of the District in which such land is situate, or other Officer performing the duties of a Collector of Land Revenue in such District, by whatever name his Office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

Procedure in such cases.

II. The Collector or other Officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents, upon which he may rely in proof of his claim or objection; and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold, subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

Pending enquiry, sale, &c., to be postponed.

III. Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land, and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

Sale to be stopped if claim appear to be established, but may afterwards be proceeded with.

IV. If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land: but such sale or other disposition of the land may afterwards be proceeded with, if, on an order issued by the local Government to try the claim or objection, as provided in Section VI of this Act, the claimant or objector shall fail to establish the same.

V. If the Collector or other Officer aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the tim eallowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior Revenue Authority; and shall forward with such Report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection; and such Board, or other Authority, on the receipt of such Report, and after calling for any further information which it may consider necessary, may confirm, modify, or reverse, the order of the Collector or other Officer as aforesaid. If the Board or other Authority as aforesaid confirm the order of the Collector or other Officer as aforesaid, or modify such order in such manner as to leave any part of such order in force, adverse to the claimant or objector, the Collector or other Officer as aforesaid shall certify such order to the Court constituted as hereinafter provided; and such Court shall forthwith give notice to the claimant or objector; and if such claimant or objector shall not, within thirty days from the delivery of such notice from the Court, institute a suit in such Court, to establish his claim or objection, the order of the Board or other Authority aforesaid shall be final.

Procedure after passing of order in the case.

Report to Revenue Board.

Decision of Board.

VI. The local Government may, within twelve months after the date on which the claim of any claimant of waste land, or the objection of any objector, as aforesaid, shall have

cal Government within twelve order suit to be to try claim Collector.

been admitted under this Act by the Collector or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided.

Special Court for trying claims

VII. For the investigation and trial of claims under this Act, the local Government shall constitute, in every District in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District, by whatever name his office may be designated, shall be one. Any one or more of the Members of which such Court shall consist, shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit. Provided that, whenever the Collector, or other Officer, by whom the original enquiry was held, is the Officer presiding in the principal Civil Court of original jurisdiction in the District, such Officer shall not be a member of such Court.

Notice of constitution of Special Courts. Claims not cognizable in other Courts.

VIII. Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates, of the District: and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection, belonging to the class of claims or objections for the trial and determination of which such Court is constituted

Special Courts where to be held

IX. The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

Plaintiff and defendant in suits under Section V.

X. In every suit instituted under Section V of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff, and the Collector or other

Officer aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent. Provided that, if such other Officer as aforesaid be the presiding Officer of the principal Civil Court of original jurisdiction in the District, the local Government shall appoint some other Officer to appear as defendant in the case on its behalf. In any suit ordered to be instituted by the local Government under Section VI of this Act, the Government, by any Officer to be appointed for the purpose, shall appear as plaintiff; and the claimant or objector as aforesaid shall appear as defendant.

Proviso

Plaintiff and defendant in suits under Section VI.

XI. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure.

Proceedings regulated by Civil Procedure Code.

XII. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents; and on the day so fixed, the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit; and the Court shall issue a Subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

Procedure before hearing of suit.

XIII. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents

Procedure on hearing.

of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper.

No appeal or revision.

XIV. No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

Reference of question of law, &c., to High Court, &c.

XV. If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of appeal and revision in the territory in which the land is situate. Provided that it shall be the duty of every Court held under this Act, to make such reference to such High Court, or Court of appeal, if, in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class.

Such reference obligatory in certain cases.

Court may proceed notwithstanding reference.

XVI. The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of appeal as aforesaid, and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred; but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of appeal.

Record of cases where to be deposited.

XVII. The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the District in which the property in dispute is situate.

XVIII. No claim to any land, or to compensation or damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with. If within three years after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the District in which the land is situate; and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other Officer as aforesaid, within the period limited under Section I of this Act; such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (with the like provision as aforesaid if such other Officer be the presiding Officer of the principal Civil Court of original jurisdiction in the District), the defendant in the suit; and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit. The report of the Officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

Limitation as to claims to land sold or dealt with.

Provision for such claims if preferred within time.

XIX. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from the Government Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

If claim established, possession not to be given, but compensation.

XX. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall beawarded in that behalf under the provisions of Act VI of 1857 *(for the acquisition of lands for public purposes)*; and thereupon the local Government shall proceed under the said Act, to obtain an award of the value of such interest.

When land has not been absolutley sold, or has been otherwise dealt with.

XXI. An award under any of the provisions of the two last preceding Sections, shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government.

Award under the two last Sections to be in full satisfaction.

XXII. Nothing in this Act shall be held to prevent the local Government from awarding to any claimant of waste land sold on account of Government, on proof to the satisfaction of the local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount of compensation for the said land, within the limit as to amount mentioned in Section XIX of this Act, if the land have been sold not subject to any condition or reservation, as to such local Government may seem proper.

Government not barred from awarding compensation for land absolutely sold though claim be not preferred in time.

XXIII. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land, or objection

Compensation for land sold subject to condition, if claim proved, though not preferred in time.

to the sale or other disposition of the land, shall be proved to the satisfaction of the local Government, although not preferred to the Collector or other Officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the local Government may award to such claimant or objector, such amount as to such local Government may appear to be the value of the interest of such claimant or objector in such land.

Interpretation.

Number.

Gender.

XXIV. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender shall include females.

CIVIL PROCEDURE.—BURMAH.

ACT No. XXIV OF 1863.

(Received the assent of the G. G. on the 16th May 1863.)

Recites expediency of amending Act I, 1863.

1—2. Empowers G. G. in C. to vest courts 2nd, 3rd and 4th grades, &c., with cognizance of suits which belong to courts of lower grade; and (2) gives same appeal in such suits as in others.

3. Constitutes Court of Deputy Judicial Commissioner at Rangoon a Deputy Commissioner under this Act.

4—5. Repeals the Code called "the Civil Code of the Province of Pegu" from 1st May 1863; saving (5) proceedings had under that Code after that date.

An Act to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory).

Preamble.

WHEREAS it is expedient to amend Act I of 1863 *(to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory)*; It is enacted as follows:—

Governor-General may invest certain Courts in British Burmah with power to try suits, &c., now cognizable by Courts of lower grade.

I. It shall be lawful for the Governor-General of India in Council to invest any Court in British Burmah, of the second, third, and fourth grades of Courts mentioned in Section II of the said Act I of 1863, with power to receive suits, and to take cognizance of other matters, arising within the jurisdiction of the Court so invested, which from their amount as well as in other respects may be cognizable under the provisions of the said Act by a Court of a lower grade, and to try and determine the same, subject to all the provisions of the said Act.

Provision for appeals from orders and decisions in suits, &c., dealt with under preceding Section.

II. Appeals from orders and decisions passed by any Court invested as aforesaid, in suits of other matters of the nature described in the last preceding Section, shall lie to the Court to which appeals from orders and decisions passed by the said Court in the exercise of its ordinary jurisdiction lie under the said Act I of 1863, and shall be subject to all the rules contained in the said Act in relation to such appeals.

Jurisdiction of Deputy Judicial Commissioner at Rangoon, and his Court.

III. The Court of the Deputy Judicial Commissioner at Rangoon shall, for the purposes of Act I of 1863, be a Court of a Deputy Commissioner as constituted by the said Act; and the said Deputy Judicial Commissioner shall exercise the same jurisdiction in respect to receiving, trying, and determining suits and other matters arising within his jurisdiction as Deputy Judicial Commissioner, as a Deputy Commissioner is competent to exercise under the said Act.

Civil Code of Pegu repealed, and Act VIII of 1859 substituted during certain period.

IV. The Code called the "Civil Code of the Province of Pegu," with exception to Chapter III of the said Code as to the limitation of suits, and Chapter XXVII relating to Stamps, shall be held to have been repealed from the twentieth day of May 1862; and on and after the said date, until the first day of May 1863, Act VIII of 1859 *(for simplifying the procedure of the Courts of Civil Judicature*

not established by Royal Charter), as extended by the Chief Commissioner of British Burmah to the Province of Pegu, shall be held to have been in force in that Province.

Provision as to order or decision passed, or proceeding held, by Courts in Pegu on or after the 20th May 1862.

V. No order or decision passed, and no proceeding held by any Court in the Province of Pegu, or by any Appellate Court in relation to any such order or decision or proceeding, on or after the said twentieth day of May 1862, and before the said first day of May 1863, shall be held to be invalid merely by reason of such order or decision having been passed, or of such proceeding having been held under the said Act VIII of 1859, as extended to the said Province by the Chief Commissioner of British Burmah, instead of under the Code called the Civil Code of the Province of Pegu, or *vice versâ*.

IMPRISONMENT OF CONVICTS IN CALCUTTA JAIL.

ACT No. XXV OF 1863.

(Received the assent of the G. G. on the 16th May 1863.)

Recites want of sufficient accommodation in House of Correction, &c.

1. Repeals Sections 47 to 52 of Act XVIII, 1862, except as to persons sentenced before passing of this Act.

2—6. Empowers Judges to sentence to rigorous imprisonment, &c., either in the House of Correction or the Great Jail; and (3) in same manner as places of intermediate custody, in case of transportation or penal servitude; and (4) directs warrant to be made out accordingly, and Sheriff to carry it out; and (5) all Constables to assist, &c.; and (6) absolves Sheriff from all responsibilities, &c.

7. Empowers Calcutta Justices of the Peace to pass sentences of imprisonment in same manner.

8—9. Empowers Lieut.-Governor of Bengal to order transfer of prisoners from one Jail to another under specified circumstances, and in what manner; and (9) legalizes retrospectively such transfers made before the Act.

An Act to empower Judges of the High Court and other Authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction, or the Great Jail of Calcutta; and to authorize the transfer of prisoners, in certain cases, from the House of Correction to

the Great Jail, and from the Great Jail to the House of Correction.

Preamble.

WHEREAS great inconvenience is occasioned in the administration of Criminal Justice, by reason of the House of Correction in Calcutta not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences, and it is desirable that the Judges of Her Majesty's High Court of Judicature at Fort William in Bengal, and the Justices of the Peace and Magistrates of Police for the Town of Calcutta, should be empowered to send prisoners to the Great Jail of Calcutta, as well as to the House of Correction; and whereas also it is desirable that the Government of Bengal should have power, in cases of over-crowding, sickness, or the like, to order the transfer of prisoners from the Great Jail to the House of Correction, and *vice versâ;* It is enacted as follows:—

Certain Sections of Act XVIII of 1862 repealed in part.

I. Sections XLVII, XLVIII, XLIX, L, LI, and LII, of Act XVIII of 1862 *(to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature),* are hereby repealed so far as they are applicable to, or have effect in, the Presidency of Fort William in Bengal, except as to any persons sentenced before the passing of this Act to rigorous imprisonment, or to imprisonment with hard labour, or to solitary confinement.

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in the House of Correction, or Great Jail.

II. Whenever any person shall be sentenced by Her Majesty's High Court of Judicature at Fort William in Bengal to rigorous imprisonment, or to imprisonment with hard labour, or to solitary confinement, it shall be lawful for the Judges or Judge of the said Court to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be

under the control of the Sheriff or not, or in the Great Jail, as to them or him shall seem fit.

Persons sentenced by the said Court to transportation, &c., may be kept in House of Correction, or Great Jail.

III. Whenever any person shall be sentenced by the said High Court to transportation, or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Great Jail, as the place of intermediate custody.

Delivery into, and responsibility for, custody of person directed to be kept in House of Correction.

IV. The Sheriff shall cause any person directed under either of the last two preceding Sections to be imprisoned or kept in the House of Correction, to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction, together with a warrant to be signed by a Judge of the said High Court authorizing the detention of such person. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for the safe custody of such person.

All Constables, &c., empowered to assist.

V. All Constables and Police Officers are hereby empowered to aid and assist the Sheriff in carrying to the House of Correction any person sentenced as aforesaid.

Sheriff when absolved from responsibility.

VI. The Sheriff shall be absolved from all responsibility, in respect of the custody of any person sentenced as aforesaid to be imprisoned or kept in the House of Correction, from the time such person shall be delivered to the custody of the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction.

Person sentenced by Justice of the Peace, or Police Magistrate, to rigorous imprisonment, &c., may be committed either to House of Correction, or Great Jail.

VII. Whenever any person shall be sentenced by a Justice of the Peace or Magistrate of Police for the Town of Calcutta, to rigorous imprisonment, or imprisonment with hard labor, for any offence committed within the local limits of the ordinary original

Civil jurisdiction of the said High Court, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the custody of the Officer in whom the control of the House of Correction is vested, or of the Keeper of the said House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the custody of the Sheriff, as to such Justice of the Peace or Police Magistrate shall seem fit. If the person so sentenced is committed to the custody of the Officer in whom the control of the House of Correction is vested, or the Keeper of the House of Correction, such Officer and Keeper shall be responsible for the safe custody of such person: if the person so sentenced is committed to the custody of the Sheriff, the Sheriff shall be responsible for his safe custody.

Lieutenant-Governor of Bengal may order transfer of prisoners from House of Correction to Great Jail, and *vice versâ*.

VIII. If it shall at any time appear to the Lieutenant-Governor of Bengal that, by reason of sickness, over-crowding, or any other cause, it is necessary or desirable that any prisoner under sentence of imprisonment in the House of Correction should be transferred to the Great Jail, or that any prisoner under sentence of imprisonment in the Great Jail should be transferred to the House of Correction, it shall be lawful for the said Lieutenant-Governor to order the transfer of such prisoner, and the prisoner shall thereupon be transferred in the manner hereinafter provided for carrying out the transfer. If the order be for the transfer of a prisoner from the Great Jail to the House of Correction, the Sheriff shall cause the prisoner to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of the House of Correction, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody. If the order be for the transfer of a prisoner

Transfer how made.

from the House of Correction to the Great Jail, the Officer in whom the control of the House of Correction is vested or the Keeper thereof, shall cause the prisoner to be delivered to the Sheriff, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. The Sheriff shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody.

Recent transfers of prisoners from House of Correction to Great Jail declared to be legal.

IX. And whereas certain persons under sentence of imprisonment in the House of Correction, have recently been on divers occasions transferred from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction: it is hereby declared, that such transfers respectively shall be held to be, and at all times to have been, legal in all respects; and that the said persons now are, and always have been, and shall continue to be until the expiration of the period of their sentences respectively, in lawful custody, whether for the time being in the custody of the Sheriff in the Great Jail, or of the Keeper or Officer having the control of the House of Correction, in the House of Correction. Provided that nothing in this Section contained shall be held to render lawful the detention or custody of any prisoner whose detention or custody would have been unlawful irrespectively of such transfer.

CUSTOMS DUTIES.

ACT No. XXVI OF 1863.

(*Received the assent of the G. G. on the* 16*th May* 1863.)

Recites expediency of amending Customs Duties.

1—2. Alters duties on iron, wines, and liquors, porter, ale, beer, cider and similar fermented liquors; from (2) 1st May 1863.

An Act to amend Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the duties of Customs on Goods imported or exported by Sea.)

Preamble.

WHEREAS it is expedient further to amend the law relating to Customs' Duties; It is enacted as follows:—

Duty to be charged on Iron, and on Wines, Beer, Porter, &c.

I. In lieu of the Customs Duties authorized in Act XI of 1862 (*to amend Act X of* 1860, *to amend Act VII of* 1859, *to alter the Duties of Customs on Goods imported or exported by Sea*), to be charged on Iron, on Wines and Liqueurs, and on Porter, Ale, Beer, Cider, and other similar fermented Liquors when imported by Sea, there shall be levied and collected on the aforesaid articles, when imported by Sea, the following Duties of Customs: that is to say;—

On Iron (which shall not be taken to include ironmongery, cutlery or hardware)...	One per cent. *ad valorem*:
On Wines and Liqueurs	One Rupee the Imperial gallon
And on Porter, Ale, Beer, Cider and other similar fermented liquors	One Anna the Imperial gallon.

Act to have effect from 1st May 1863.

II. This Act shall be deemed to have had and to have effect as if it had actually passed and received the assent of the Governor-General on the first day of May 1863.

INCOME TAX.

ACT No. XXVII OF 1863.

(*Received the assent of the G. G. on the* 16*th May* 1863.)

Recites expediency of reducing the Income Tax.

1—2. Reduces the Income Tax from 3 per cent. to 2 per cent.

An Act to further amend Act XXXII of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of 1860 (to amend Act XXXII of 1860), and Act XVI of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the thirty-first day of July 1862, under Act XXXII of 1860, and Act XXXIX of 1860, and otherwise to modify the said Acts).

Preamble.

WHEREAS it is expedient to diminish the amount of Duties chargeable under Act XXXII of 1860 (*for imposing Duties on profits arising from Property, Professions, Trades, and Offices*), and under Act XXXIX of 1860 (*to amend Act XXXII of* 1860), and for that purpose

to amend those Acts: and also to amend Act XVI of 1862 (*to limit in certian cases the amount of assessment to the Duties chargeable after the thirty-first day of July* 1862, *under Act XXXII of* 1860, *and Act XXXIX of* 1860, *and otherwise to modify the said Acts*); It is enacted as follows:—

Acts XXXII of 1860, XXXIX of 1860, and XVI of 1862 to be read with this Section.

I. From and after the thirty-first day of July 1863, the said Act XXXII of 1860, and the said Act XXXIX of 1860, and the said Act XVI of 1862, shall be read and construed as if, in the first Section of the said Act XXXII of 1860, the words "the yearly Duty of two Rupees for every hundred Rupees of the annual value thereof" appeared instead of the words "the yearly Duty of three Rupees for every hundred Rupees of the annual value thereof," except as to any Duties which shall have become chargeable under the said Acts previously to the said thirty-first day of July 1863.

Section XV of Act XVI of 1862 to be read with this Section.

II. Section XV of Act XVI of 1862, shall, from and after the said thirty-first day of July 1863, be read and construed as if the words "not less than twenty per cent. of the gross sum collected on account of the Duties of two and one per cent.," appeared therein in lieu of the words "not less than twenty per cent. of the gross sum collected on account of the Duties of three and one per cent."

STAMP DUTIES.—STRAITS SETTLEMENT.

ACT No. XXVIII OF 1863.

(*Received the assent of the G. G. on the* 16*th May* 1863.)

Recites various notifications of G. G. in C. respecting Stamp Duties in Straits' Settlements.

1—2. Act X. 1862, to be deemed not to have come into operation in Straits' Settlements before 1st January 1863; but (2) shall, except Schedule B., be deemed to come into operation on that date.

3—4. Empowers the Governor to fix and notify the rates of exchange into Straits Currency at which the Indian Stamp Duties shall be paid; and (4) legalizes Duties already paid under previous notification; and Sections 3 and 4 of this Act to be read as part of Act X. 1862.

An Act to remove doubts as to the operation of Act X of 1862 (to consolidate and amend the law relating to Stamp Duties) in the Settlement of Prince of Wales' Island, Singapore, and Malacca, between the first day of November 1862, and the first day of January 1863; and respecting the rate of exchange for payment of Stamp Duties, in the Currency of India, in the said Settlement.

Preamble.

WHEERAS by a Notification of the Governor-General of India in Council, dated the thirtieth day of May 1862, it was directed that all Deeds, Instruments, or Writings, executed in the Straits' Settlement, should be exempt from the Duties prescribed in Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*); and whereas by another Notification of the Governor-General of India in Council, dated the first day of November 1862, it was ordered that the temporary suspension of the operation of the said Act X of 1862 in the Straits' Settlement, under the said Notification dated the thirtieth of May 1862, should cease and determine from the said first day of November 1862; and whereas by a further Notification of the Governor-General of India in Council, dated the sixth of November 1862, His Excellency in Council was pleased to exempt, until further orders, all Deeds, Instruments, and Writings, enumerated in Schedule B. of the said Act X of 1862, from the Duties prescribed in that Schedule; and whereas, afterwards, the Governor of the Straits' Settlement suspended the operation of the said Act X of 1862 in the said Settlement, until the first day of January 1863; and whereas, in consequence of such suspension of the operation of the said Act many penalties have been incurred and many Deeds, Instruments, and Writings, have been rendered invalid, or inadmissible in evidence, and it is expedient that such effects should be removed; and whereas it is also expedient to remove all doubt as to the rate of exchange for the payment of Stamp Duties, in the Currency of India, in the said Settlement; It is enacted as follows:—

Act X of 1862 not in operation in Straits' Settlement before 1st January 1863.

I. The said Act X of 1862 shall be held not to have come into operation in the said Settlement before the first day of January 1863.

Operation of Act, and of Schedule B of same, when to commence.

II. The said Act X of 1862, except Schedule B, shall be held to have come into operation in the said Settlement on the said first day of January 1863. The said Schedule B shall come into operation in the said Settlement from such time as the Governor-General of India in Council shall, under the authority vested in him by Section XXXIII of the said Act X of 1862, by an order to be published in the Calcutta Gazette, appoint.

Rate of exchange for payment of Stamp Duties, in India Currency, to be fixed by Governor.

III. For the purpose of fixing the rate at which Stamp Duties, payable in the Currency of India, under the said Act X of 1862, on Deeds, Instruments, and Writings, which are liable to stamp Duty in the said Settlement, shall be calculated and paid, when the Deeds, Instruments, or Writings, in respect of which such Duties are payable, are Deeds, Instruments, or Writings, in which the amount or value on which the Stamps Duties is payable is not expressed or estimated in such Currency, it shall be lawful for the Governor of the said Settlement, from time to time by a Notification to be published in the Official Gazette, to fix the rate at which Stamp Duties under the said Act X of 1862 will be taken by Government on such Deeds, Instruments, and Writings, as aforesaid; and every such Deed, Instrument, and Writing, which shall be stamped with the full and proper stamp or stamps required by the said Act X of 1862, calculated according to the rate of exchange which shall have been fixed by the said Governor, by a Notification as aforesaid (which Notification shall be in force, and not rescinded by any other such Notification as aforesaid, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to be duly stamped under the said Act X of 1862.

IV. Every Deed, Instrument, or Writing, liable to Stamp Duty in the said Settlement, which before the time when the last preceding Section and this Section of this Act shall come into operation, shall have been stamped with the full and proper stamp or stamps required by the said Act X of 1862, calculated according to the rate fixed by a Notification of the said Governor before the time when the said Sections shall come into operation, (which Notification shall be in force, and shall not have been rescinded by any other such Notification, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to have been duly stamped under the said Act X of 1862.

Provision as to Deeds, &c., stamped before the coming into operation of this and the last Section.

V. Section III and Section IV of this Act shall be read and taken as part of the said Act X of 1862, and shall come into operation on the first day of June 1863.

Commencement of Sections III & IV.

PRESIDENCY BANKS AND SUB-TREASURERS.

ACT No. XXIX OF 1863

(*Received the assent of the G. G. on the 7th December* 1863.)

Recites agreement under which the Banks transact the Treasury business.

1. Makes receipt of the Secretary to the Bank equivalent to receipt of Sub-Treasurer; and (2) in all Acts and Regulations, the words Secretary of Bank, &c., to be read in place of Sub-Treasurer, &c.

An Act to declare receipts of the Banks of Bengal, Madras, and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St. George, and Bombay respectively.

Preamble.

WHEREAS under the provisions of Act XXIV of 1861 (*to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries*), the Bank of Bengal has, through the Governor-General of India in Council,

entered into an agreement with the Secretary of State for India in Council that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William as consists of receiving and paying money on behalf of the Supreme Government and the Government of Bengal shall be carried on and transacted by the said Bank: and whereas the Bank of Madras and the Bank of Bombay have entered into similar agreements through the Governor in Council of Madras and the Governor in Council of Bombay with relation to the business hitherto generally transacted at the Treasuries at Madras and Bombay respectively: and whereas the office of Sub-Treasurer at Fort William and the office of Sub-Treasurer at Fort St. George and the office of Sub-Treasurer at Bombay have been abolished, and the business generally transacted at these offices has for some time past been and is now under the said agreements carried on and transacted by the said Bank of Bengal, Bank of Madras, and Bank of Bombay respectively: and whereas doubts have been entertained whether in certain cases, in which during the existence of the office of Sub-Treasurer the receipt of the Sub-Treasurer was required, the receipt of the Secretary of the Bank of Bengal, or of the Secretary of the Bank of Madras, or of the Secretary of the Bank of Bombay, as the case may be, is a good and sufficient receipt and discharge to the person to whom the same is given: and whereas it is desirable that these doubts should be removed; It is enacted as follows: -

Receipts of Secretaries of the Banks to be good in lieu of those of the Sub-Treasurers at the Presidencies.

I. The receipt of the Secretary of the Bank of Bengal, of the Secretary of the Bank of Madras, and of the Secretary of the Bank of Bombay (as the case may be), granted under the circumstances aforesaid, shall be deemed to be, and always to have been, as good and sufficient a receipt and discharge to the person to whom the same is granted, as the receipt of the Sub-Treasurer of Fort William, or of the Sub-Treasurer of Fort St. George, or of the Sub-Treasurer of Bombay would have been if the office of the said Sub-Treasurer had not been abolished.

All Acts in which the Sub-Treasurers at the Presidencies are named to be read as if the Banks' Secretaries were named instead.

II. In every Act and Regulation in which the words Sub-Treasurer of Fort Willam, Sub-Treasurer of Fort St George, or Sub-Treasurer of Bombay occur in connection with the payment of money required to be paid to, or of any act required to be performed by, any one of the said Sub-Treasurers, such Act or Regulation shall hereafter be read as if the words Secretary of the Bank of Bengal, Secretary of the Bank of Madras, and Secretary of the Bank of Bombay occurred therein, instead of the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, and Sub-Treasurer of Bombay respectively.

OUDH COMMISSIONERS OF ENQUIRY.

ACT No. XXX OF 1863.

(*Received the assent of the G. G. on the* 16*th December* 1863.)

Recites demands made on Government in respect of claims on late Government of Oudh.

1—3. Authorizes the G. G. in C. to issue commission of enquiry; or (2) to appoint a sole Commissioner; and (3) continues commission notwithstanding death or resignation of individual Commissioner, and authorizes Government to fill up vacancies.

4—10. Place of sitting of Commissioners to be fixed by G. G. in C.; and (5) Commissioners to proceed as nearly as possible as in an ordinary suit under Civil Code; and (6) empowers Commissioners to summon witnesses, &c.; and (7) to administer oath to them; and (8) gives them the same powers for punishing witnesses, as might be exercised by the Court of Civil Jurisdiction of the District where the witness resides; (9) expenses of witness to be paid and how; and (10) persons giving false evidence to be punishable under Section 193 of Indian Penal Code.

An Act to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh.

Preamble.

WHEREAS certain persons have made demands against the Government of India in respect of claims preferred by them, either in their own right or as the representatives of persons now deceased, against the late Native Government of Oudh; and whereas it is desirable that Commissioners should be appointed for the

purpose of investigating the said claims; It is enacted as follows:—

Appointment of Commission of Enquiry.

I. It shall be lawful for the Governor-General of India in Council to issue a Commission to such persons as he shall think fit, for the purpose of enquiring into and reporting on such claims preferred aginst the late Native Government of Oudh, as shall be in the said Commission named and described. The said Commissioners shall fully enquire into the said claims respectively, and shall as soon as they conveniently can report to the Governor-General of India in Council the result of their enquiries, and shall in their report or reports make such suggestions, if any, as shall to them seem fit.

Governor-General in Council may appoint a sole Commissioner.

II. It shall be lawful for the Governor-General of India in Council to issue such Commission to one person only, if he shall so think proper; and if a Commission is issued to one person only, all the powers by this Act given to Commissioners shall and may be exercised by the sole Commissioner so appointed; and all the provisions of this Act as to appointing new Commissioners in the room of any of the Commissioners dying or resigning, or becoming unable or refusing to act, and as to the powers to be exercised by the new Commissioners so appointed, shall apply equally (so far as the same may be applicable) to the case of a sole Commissioner dying or resigning, or becoming unable or refusing to act, and of any new Commissioner appointed in his room.

Death or resignation of any of the Commissioners.

III. In case of the death or resignation of any of the said Commissioners, or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone. It shall be lawful for the Governor-General of India in Council, from time to time, without issuing a new Commission, to appoint some other person or persons to act as a Commissioner or Com-

missioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly-appointed Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner.

Claimants may appear to support their claims at time and place fixed by Governor-General.

IV. The said Commissioners shall enter in public upon the enquiry into the said claims respectively, at such time and place as shall have been fixed by the Governor-General of India in Council, by notification published in the Calcutta Gazette at any time whether before or after the passing of this Act. It shall be lawful for any of the claimants preferring the claims in the said Commission mentioned, to appear at the time and place so appointed in support of their claims respectively, either in person or by Agent duly constituted. The Secretary of State for India in Council may also in like manner appear at such time and place in opposition to the said claims. No claimant who shall not appear at the time and place appointed shall be entitled to appear subsequently or to take any part in the proceedings unless the Commissioners shall in their discretion specially permit him so to do. It shall be lawful for the Governor-General of India in Council, by notification in the Calcutta Gazette, to vary or cancel any notification previously given as aforesaid.

Mode in which public enquiry is to be conducted.

V. The public enquiry into the several claims aforesaid shall be conducted by the said Commissioners so far as regards adjournments, the examination of claimants and witnesses, the reception of documents and the rules of evidence, in like manner (so far as the same may in the opinion of the Commissioners be possible) as an ordinary Civil suit under the Code of Civil Procedure. The persons appearing in support of any claim shall be deemed for the purpose of the enquiry to be the plaintiffs in the cause, and the Secretary of State for India in Council shall be deemed to be the defendant, and may oppose the claimants in like manner as a defendant in a Civil suit may ordinarily oppose the plaintiff therein.

VI. It shall be lawful for the Commissioners aforesaid, by a summons under the hand of any one of them, to require the attendance before them at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within British India, whose evidence shall, in the judgment of the Commissioners aforesaid, be material to any of the matters of the enquiry aforesaid; and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings as to them the said Commissioners shall appear necessary for arriving at the truth of the matters directed to be enquired into by the said Commissioners; all which persons shall accordingly attend before the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them and shall be in their custody and control, or in the custody and control of any one of them, according to the tenor of the summons.

Attendance of witnesses.

VII. It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath or an affirmation in such form as to the said Commissioners shall seem fit, to all persons who shall be examined before them touching the matters to be enquired into: Provided that nothing herein contained shall render it necessary for the said Commissioners to take evidence upon oath or affirmation unless they shall think it fit or expedient so to do.

Examination of witnesses on oath or affirmation.

Proviso.

VIII. If any person upon whom any such summons shall be served, by the delivery thereof to him or by the leaving thereof at his usual place of abode, shall without reasonable cause (to be allowed by the Commissioners aforesaid) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be), or shall not make answer to such questions as shall be put to him touching the matters directed, or which may hereafter be directed to be enquired into by the Commissioners aforesaid, or shall refuse or fail without reasonable cause (to be allowed by

Witnesses neglecting to attend, &c.

the Commissioners aforesaid) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such person so failing to appear, or refusing to be sworn, or to make affirmation, or not answering such questions as shall be put to him, or refusing to produce and show any such book, paper, deed, or writing as aforesaid, as the Principal Court of Original Civil Jurisdiction within the limits of which the said person shall be residing may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court.

Expenses of witnesses.

IX. Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may if they think fit order such witness to receive from the Collector or Commissioner of the District or Division, such travelling and other expenses as he would have been entitled to receive had he been summoned to appear and give evidence in the Principal Court of Original Civil Jurisdiction in the District or Division.

Punishment for false evidence.

X. Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid or any of them, shall wilfully give false evidence, shall be liable to the punishment provided in Section 193 of the Indian Penal Code for the offence of giving false evidence.

GAZETTE OF INDIA, PUBLICATION OF ORDERS.

ACT No. XXXI OF 1863.

(*Received the assent of the G. G. on the* 16*th December* 1863.)

Recites the establishment of a new Gazette—the Gazette of India.

1. Declares that official publication in the Gazette of India shall avail as if publication in Presidency Gazette.

An Act to give effect to the publication of certain orders and other matters in the Gazette of India.

Preamble.

WHEREAS the Governor-General of India in Council has resolved to publish an Official Gazette to be called the Gazette of India containing such orders, notifications, and other matters as the Governor-General of India in Council shall direct to be inserted therein; It is enacted as follows:—

Publication in the Gazette of India to have the effect of publication in any other Gazette in which publication is prescribed by any law now in force.

I. When in any Regulation or Act now in operation, or in any Rule having the force of law, it is directed that any order, notification or other matter shall be published in the Official Gazette of any Presidency or place, such order, notification or other matter shall be deemed to be duly published in accordance with the requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the Gazette of India under the directions of the Governor-General of India in Council.

HIGH COURT FEES.

ACT No. XXXII OF 1863.

(*Received the assent of the G. G. on the* 16*th December* 1863.)

Continues Act XX. 1862, until notification of its expiry made by G. G. in C.

An Act to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court).

Preamble

WHEREAS it is expedient that Act XX of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of* 1859 *in the said High Court*), should continue in force for a further period from the first day of January 1864; It is enacted as follows:—

Act XX of 1862 continued till such date as the Governor-General in Council shall appoint.

1. Act XX of 1862 shall continue in force until such time as the Governor-General of India in Council shall by notification published in the Gazette of India appoint for its expiry.

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TABLE OF CONTENTS.

TITLES OF ACTS OF 1864.

The Acts of this year have been passed without Titles. Titles are supplied in the following Table.

		Page.
No. 1.	An Act relating to the Administration of Poorwah and Khudder in Banda	
2.	An Act relating to the Administration of Justice in Aden	2
3.	An Act to enable the Government to prevent Foreigners from residing or travelling in India without the consent of Government	12
4.	An Act to give validity retrospectively to the establishment of the Small Cause Court at Kurrachee	27
5.	An Act to give validity retrospectively to the extension of the Code of Civil Procedure in Scinde.....	22
6.	An Act to establish the punishment of whipping in certain cases	23
7.	An Act to empower the Governor-General in Council to extend the Customs Salt Duties to the Central Provinces	29
8.	An Act to give certain powers, and to establish liability of the Comptoir D'Escompte of Paris	30
9.	An Act to repeal an Act for the levy of Port Dues in the Port of Amherst	40
10.	An Act to extend the provisions of Act XXI., 1856, to Provinces under the immediate administration of the Government of India	41
11.	An Act to discontinue the offices of Hindoo and Mahomedan Law Officers, and the appointment of Cazee-ool-Cozaat by Government ...	42
12.	An Act to empower the Governor-General in Council to make Rules, &c., for giving effect to the Treaty with Burmah	50
13.	An Act to consolidate and amend the Laws relating to the Emigration of Native Laborers ...	51
14.	An Act to legalize retrospectively certain orders of the Judge of Konkan	83

Page.

15. An Act to amend Schedule of rates and tolls on Roads and Bridges, and to empower local authorities to extend the same... 84
16. An Act to consolidate and amend the Laws relating to the Registration of Assurances 87
17. An Act to amend the Law relating to Official Trustees, and to constitute an office of Official Trustee 114
18. An Act for the establishment of a Municipal Committee for Lucknow, and for levying City Duties, and regulations of Conservancy and for the improvement of the City 125
19. An Act to remove certain Tracts in the District of Mirzapore from the operation of the General Regulations 132
20. An Act to provide for the care of the property of Minors in the Presidency of Bombay..... 133
21 An Act to enlarge the powers of the Magistrates of Calcutta of punishing summarily for certain offences 143
22 An Act for the regulation of Civil and Criminal Justice in Military Cantonments 145
23. An Act to amend the Law relating to Customs Duties 162
24. An Act to legalize certain past administration in the Districts of Jhansie, Jaloun and Lullitpore, and to provide for the administration of Justice 163
25. An Act to provide further for the solemnization of Marriages in India of persons professing the Christian Religion 167
26. An Act to enlarge the jurisdiction of the Courts of Small Causes under Act IX., 1850, and to provide for an increase of the Judges 193
27. An Act to relieve persons having conscientious objections to existing forms of oath of qualification for Justices of the Peace, and to superadd new forms of oath 199
28. An Act to extend Act XXI., 1856, and Act XXIII, 1860, to the Punjab 200

INDEX.

ABKARREE REVENUE.

Act XXI., 1856, relating to, may be extended to the Punjab, 200.

ABKARREE REVENUE OF BENGAL.

Act relating to, may be extended to parts under the administration of the Government of India, 47.

ACTS *amended, extended, repealed.*

1836 27 (Law Officers) repealed, 49.
1838 30 (Registration of Assurances) repealed, 113.
1839 14 (Emigration) repealed, 81.
1842 15 (Ditto) ditto, *ib.*
1843 1 (Registration) ditto, 113.
" 7 s. 51 (Law Officers) ditto, 49.
" 17 (Official Trustee) ditto, 115.
" 19 (Registration) ditto, 113.
" 21 (Emigration) ditto, 81.
1844 21 (Ditto) ditto, 82.
1845 4 (Registration) ditto, 113.
" 5 (Law Officers) ditto, 49.
" 23 (Emigration) ditto, 82.
1847 8 (Ditto) ditto, *ib.*
" 13 (Ditto) ditto, *ib.*
" 18 (Registration) ditto, 113.
1851 8 (Tolls) Schedule repealed, 85.
" 11 (Registration) ditto, 113.
1852 4 (Emigration) ditto, 82.
" 24 (Ditto) ditto, *ib.*
1853 18 (Military Cantonments) repealed as respects Bengal, 162.
1855 31 (Ditto) ditto ditto, *ib.*
1856 19 (Emigration) partially repealed, 82.
" 29 (Registration) repealed, 113.
1859 8 ss. 9, 10 (Registration) ditto, *ib.*
" 14 (Limitation of Suits) extended, 167.
1860 12 (Emigration) repealed, 82.
" 33 (Ditto) ditto, *ib.*
" 41 (Ditto) ditto, *ib.*
" 49 (Ditto) ditto, *ib.*
1862 22 (Ditto) ditto, 83.
1863 4 (Burmah Treaty) supplemented, 50.
" 7 (Emigration) repealed, 83.

ADEN.

Act to regulate the administration of justice at Aden, 2.

ADEN, RESIDENT AT.

Constituted a Court, 5; with Assistants, *ib.*; appeal from Assistant to, when, 5; powers of, what, 5; no appeal from, 6; but may send case to High Court, *ib*; to have powers of Small Cause Court, 7; procedure of, to be Code of Civil Procedure, 8.

Criminal jurisdiction of, defined, 8; Assistant to, may have powers of Magistrate, *ib.*; and powers of punishing defined, *ib.*

ADEN, RESIDENT AT.—(*Continued.*)
To be a Court of Session, 9; with power to try British subjects, &c., except for capital offences, *ib.*
Criminal procedure of, to be Code of Criminal Procedure, 10; Europeans and Americans to be tried by a Jury, 10; one-half to be Europeans or Americans if desired, 10.
Sentence of death by, not to be carried out without confirmation, 11.
May reserve case for opinion of High Court, *ib.*
General rules for, may be made by High Court, *ib.*

ADMINISTRATION OF ESTATE OF MINORS.—(Bombay).—*See Minors.*
Act to provide for, 134.

ADVOCATE-GENERAL.
Report of Auditors of Official Trustee's accounts may be referred to, 124; his costs how to be paid, *ib.*

AMHERST.—(*See Port Dues in Amherst.*)

ASSISTANT CANTONMENT MAGISTRATE.
To be subject to what rules, 149.
May be Small Cause Court Judge, 150.

ASSISTANT RESIDENTS AT ADEN.—(*See Aden, Resident at.*)

AUDITOR OF ACCOUNTS OF OFFICIAL TRUSTEE.—(*See Official Trustee.*)
To be appointed by Chief Justice, 122; for what purposes, *ib.*; and as to his powers, *ib.*; and as to expenses of costs of audit, *ib.*
Report of, may be referred to Advocate General, 123; whose costs are to be defrayed how, 124.

BANDA.—(*See Poorwah and Khudder.*)

BRITISH GUIANA.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib., et seq.*

BURMAH.—(*See Treaty with Burmah.*)

CANTONMENT MAGISTRATE.—(*See Military Cantonment.*)
Act relating to, 145; his powers, *ib., et seq.*; to be Small Cause Court Judge, 149.
To serve process from outer parts, 150.

CAZEE.—(*See Hindoo and Mahomedan Law Officers.*)
No longer to be appointed by Government, 42.

CERTIFICATE OF ADMINISTRATION OF ESTATE OF MINORS.—(*Bombay.*)—*See Minors.*
By whom and to whom grantable, 134, *et seq.*; also when property is in several districts, 135; fitness of applicant to be enquired into, *ib.*
May be recalled, 139.

CHIEF COMMISSIONER OF CENTRAL PROVINCES.—(*See Salt Customs Duties.*)

CHIEF COMMISSIONER OF LUCKNOW.—(*See Lucknow.*)

CODE OF CIVIL PROCEDURE—(Scinde.)
Act to give validity retrospectively to the extension of, to Scinde, 22.

COMPTOIR D'ESCOMPTE OF PARIS.
Act to give certain powers to, and to establish liability of, 30, *et seq.*
How it may sue and be sued, 34, *et seq.*
To have an office, 36; and memorial thereof to be filed, *ib.*; in what form, 39, 40.

CUSTOMS DUTIES.—(*See Salt Customs Duties.*)
Act to amend the Law relating to, 162.
Schedule of Import Duties on specified articles, *ib.*

DECLARATION OF JUSTICES OF THE PEACE.
Form of given, 199; and to be deposited where, 200.

DISTRICT MARRIAGE REGISTRAR—(*See Marriage Registrar.*)
His duty as to notices of Marriage, 172.

EMIGRANTS.
What and who are, 54.
To be inspected and reported upon, 58; by whom, *ib.*; to be placed in depôt, *ib.*; not to leave until examined by Magistrate, 59; as to what, *ib.*; not to be registered, if imposed upon, 61; to be registered, *ib.*, *et seq.*; to be conveyed to port of emigration, 62; accompanied by Recruiter, *ib.*; and provided with suitable lodging, 63.
Arrival of at depôt to be reported, 63; to whom, *ib.*; and certified by Medical Inspector, 63.
If not fit to emigrate, money to be paid to enable him to return, *ib.*; by whom, *ib.*, *et seq.*; and in default of payment, what to be done, 64.
Refusing to go, to be liable to what, 66.
At what times they may leave, *ib.*
How to be counted, 68.

EMIGRANT DEPÔT.
To be established, 58; and licensed, *ib.*; subject to approbation of Medical Inspector, *ib.*

EMIGRANT PASS.
To be delivered to Emigrant, 63; countersigned by Emigration Agent, 66; to be delivered to Master on embarkation, 71; and returned prior to disembarking, *ib.*

EMIGRANT SHIPS.
To be licensed, 66; on application by Master, 67; stating what particulars, *ib.*
To be surveyed, 67.
Master of, to give Bond, *ib.*
Going East of Cape of Good Hope may sail when, 66; and when going elsewhere, *ib.*
To be licensed on what conditions, 67, *et seq.*
To carry what provisions, 68; and medicines, *ib.*; and a Surgeon, *ib.*; and water, 69; and apparatus for distilling, *ib.*
Custom House Officers, their duty on leaving, 72; and Pilots, their duty, *ib.*
To leave port within 24 hours after embarkation, 73.
To proceed to sea in tow of steamer from Calcutta, *ib.*
Copies of Act and Rules to be on board, *ib.*

EMIGRATION AGENT.
To be appointed, 56; by whom, *ib.*; and removable by whom, *ib.*; to be remunerated by fixed salary, 57; his duty, 59.
To enquire as to treatment of Emigrant prior to his arrival at depôt, 64.
To furnish Master with lists of Emigrants, 70; containing what particulars, 71.

EMIGRATION LAW.
What Officers may be appointed to enforce, 81; what repealed, 81, *et seq*

EMIGRATION OF NATIVE LABORERS.—(*See Emigration Agent, Protector of Emigrants, Recruiter of Emigrants.*)
Act to consolidate and amend the laws relating to, 51, *et seq.*
Act relating to, repealed, 81, *et. seq.*
To what, the Act does not extend, 54.
Contracts for, must be under Act, *ib.*

EMIGRATION OF NATIVE LABORERS.—(*See Emigration Agents, Protector of Emigrants, Recruiter of Emigrants.*)—(*Continued*).

To what named places it may be, 55; and to what other places, *ib.*; and subject to what conditions, *ib.*, *et seq.*; and Governor-General may prohibit further emigration to place, when, 75, and under what circumstances, *ib.*

May be from Calcutta, Madras, or Bombay, and no other places, 56.

At what times it may be, *ib.*

To be preceded by inquiry before Magistrate, 60.

Rules respecting may be made by Governor-General in Council, 74; and for what purposes, *ib.*

If not conformable with Act, to be an offence in whom, 76.

Powers of Custom House Officers in relation to, 79, *et seq.*

FOREIGNERS.

Act to enable Government to prevent their residing, &c., in India, 13.

Who are, 13; persons alleged to be, to prove they are not, *ib.*

May be removed, or ordered to remove, by general or local Government, 14; and not doing so, or returning, may be detained in safe custody, *ib.*

Orders of Government respecting to be notified in Gazette and have the force of law, 15.

Arriving, to report themselves, 15; in writing, 16; with specified particulars, *ib.*; except Masters or Commanders of Vessels, *ib.*; and in default to be subject to consequences, *ib.*; such reports by whom receivable, 19.

Not to travel without a license, 16; from Government, or persons authorized to grant license, *ib.*

License to contain what, 17; and may impose conditions, *ib.*

May be apprehended, if without or contrary to the terms of the license, 17; and be dealt with how, *ib.*; but may be bailed, 18.

May be prohibited from travelling, &c., in India, 18; or in any Presidency, 19.

Right of searching vessels for, may be exercised how and by whom, 19; and Masters of vessels bound to answer enquiry, 20; subject to consequences for refusal, &c., to answer, *ib.*

Individually, or in classes, may be exempted by Government, 21.

GRENADA.—(*See Emigration of Native Laborers.*)

Emigration may be to, 55; subject to what conditions, *ib.*, *et seq.*

GUARDIAN.—(*See Minors.*)—(*Bombay.*)

When to be appointed for Minor, 137.

May be discharged, 140.

HINDU AND MAHOMEDAN LAW OFFICERS.—(*See Cazee.*)

Act to discontinue the offices of, 42, *et seq.*

IMMOVEABLE PROPERTY.—(*See Registration of Assurances.*)

IMPEDIMENTS TO MARRIAGE.

To be enquired into, 174.

JAMAICA.—(*See Emigration of Native Laborers.*)

Emigration may be to, 55; subject to what conditions, *ib.*, *et seq.*

JHANSI, JALOUN, LULLUTPORE, KUMAON, AND JOUNSAR BAWUR.

Act to legalize certain proceedings in, and to provide for the administration of justice, 163, *et seq.*

Civil proceedings in, to be according to Code of Civil Procedure, *ib.*, *et seq.*

Limitation of suits in, to be under Act XIV., 1859.

Government of N. W. Provinces empowered to extend Regulations to, 169.

JURY.—(Aden.)
Europeans and Americans to be tried by, 10; half of which to be Europeans or Americans, if desired, *ib.*

JURY LISTS.—(Aden.)
To be prepared, 10; Military Officers not exempt from, *ib.*

JUSTICES OF THE PEACE.
Declaration of qualification appointed, 200.

JUSTICES OF THE PEACE OF CALCUTTA.
Act to extend their powers of punishing summarily, 143.
Summary powers of, may be given to Justices at Madras and Bombay, 145.

JUVENILE OFFENDERS.—(*See Whipping, punishment of.*)

KONKAN, JUDGE OF.
Act to legalize retrospectively the acts of, 83.

KURRACHEE.—(*See Small Cause Court, Kurrachee.*)

LIMITATION OF SUITS—(*Jhansi, Jalown, Lullutpore, Kumaon and Gurhwal.*)
Act XIV., 1859 extended to, 165.

LUCKNOW.—(*See Municipal Committee of Lucknow.*)
Municipal Committee for to be appointed, 126; how composed, and how elected, *ib.*
Municipal limits of, to be declared, by whom, *ib.*
Chief Commissioner of, his powers, *ib.*; to fix Municipal limits, *ib.*; election of non-official members, subject to his approval, 127; such members removable by him, *ib.*; and powers of Committee may be suspended by him under conditions, *ib.*; to be President of Municipal Committee, *ib.*

MARRIAGE LAW OF CHRISTIANS IN INDIA.
Penalties under, 183, *et seq.*

MARRIAGE OF CHRISTIANS.
Act for the regulation of, 169, *et seq.*
To be solemnized only according to Act, *ib.*; otherwise void, *ib.*
May be solemnized by what descriptions of persons, *ib.*
Statutory certificates and declarations on Scotch marriages no longer necessary, 170.
Certain marriages before July 1864, legalized, 170.
Mode of solemnizing established, 170 *et seq.*
Regulations respecting, if one party be a minor, 172.
What notice of, to be given, 171, 172; and how to be published, 172.
Declaration to be made by parties before marriage, 173.
Consent of father, mother, or guardian to marriage of minor necessary, 174.
If of Native Christians, certain enquiry prescribed, *ib.*
What certificates required prior to, 173, and form of, 175, 188; and what certificate after, 178.
On litigation concerning proceedings, &c., prior to marriage need not be proved, 175.
Time of day for solemnizing, 176.
To be registered, 176; but non-registration not to affect validity of marriage, *ib.*

MARRIAGE OF NATIVE CHRISTIANS.
Special and exceptional rules as to, 181.
Competent age for, 182; forbidden within the prohibited degrees of consanguinity, *ib.*; also if husband or wife be living, *ib.*; and in whose presence, *ib.*; upon what solemn declaration, *ib.*; and between what hours, *ib.*
Certificate of, to be given, *ib.*; on payment of fee, *ib.*; by whom, 181, 182.
Register of, to be kept in vernacular language, 183; searches of which may be made, *ib.*

MARRIAGE REGISTER BOOK.
To be kept by whom and in what form, 177; and in what order entries to be made, 178.
Errors in, when to be corrected, and how, 179.
As to searches in, 180; and fees payable for searches, 180.
Certified copy of, to be evidence as to contents without proof, 181.

MARRIAGE REGISTRAR.
Competent to perform ceremonies, 169.
As to offences by, 185.
His duty in respect of entries, 178, *et seq.*

MASTER OF EMIGRANT SHIP.
To take out a license, 67.
To give a Bond for compliance with Act, *ib.*
Not to receive emigrant without a Pass, 71.
As to offences by, 78, *et seq.*

MEDICAL INSPECTOR OF EMIGRANTS.
To be appointed, 58; with salary, *ib.*; depôt of emigrants to be approved by him, *ib.*; his duty as to inspections, *ib.*, *et seq.*

MILITARY CANTONMENTS.—(*Bengal.*)
Act to provide for the conservancy and administration of justice in, 147; saving rights and powers of Courts Martial, &c., 158.
Acts and Regulations relating to, repealed, 167.
Criminal jurisdiction in, to be exercised by Cantonment Magistrate, 148; subject to what control, *ib.*
Magistrate of, to be considered as in charge of a Division, *ib.*
May be made a District for Registration of Assurances, 151.
Police Force in, to be superintended by whom, *ib.*
Police Chowkeedar Act may be extended to, *ib.*
General rules may be made for, *ib.*, *et seq.*; subject to confirmation of Governor-General in Council, 152, and as to subjects of rules, *ib.*; breaches of which, how punishable, 154; and of which all Courts shall take judicial notice, 155.
Limits of, may be extended, 154.

MILITARY COURTS OF REQUEST.—(*Bengal.*)
To cease on establishment of Small Cause Courts, 149.

MINORS.—(*Bombay.*)
Act to make better provision for care of their persons and property, 134; not being European British subjects, *ib.*
Estate of, to be administered under certificate, 135; by what persons, *ib.*; application for, to be made where, if property in more than one District, *ib.*; when to be administered by the Court, 136; when by Public Curator, 137.
Guardian for, when to be appointed, 137.
Allowance for maintenance of, to be allowed, *ib.*
Estate of, when co-sharers are not minors, 138.
As to powers of Administrator, 139.
As to education of, 141.
At what age minority ceases, 142.

MIRZAPORE.
Certain districts of, may be taken out of the operation of the General Regulations, 132; to take effect from when, 133.

MAURITIUS.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib.*, *et seq.*

MUNICIPAL COMMITTEE OF LUCKNOW.
Act for the appointment of, 125 *et seq.*
Ex-officio members of, to be whom, 126.

MUNICIPAL COMMITTEE OF LUCKNOW.—(*Continued.*)
Non-official members of, to be elected how, *ib.*; and hold office how long, *ib.*; removable, how, 127; powers of may be suspended, how, *ib.*
President of, who, *ib.*
Functions and duties of, what, *ib.*
May enter into contracts, *ib.*; how, 128; but not to be personally liable on such contracts, *ib.*; or for expenses under them, *ib.*; but to be liable for misapplication of funds, *ib.*
To make annual estimates for expenditure of coming year, *ib.*; and of work and expenditure of past year, *ib.*

NATAL.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib.*, *et seq.*

NATIVE CHRISTIANS.—(*See Marriage of Native Christians.*)

NATIVE LABORERS.—(*See Emigration of.*)

NOTICE OF MARRIAGE.—(*See Marriage of Christians.*)
To be sent to whom, 171; and what is to be done with and upon receipt of it, 172 *et seq.*; to be in what form, 188.
Certificate of, to be issued by whom, 173.

OATH.—(*See Justices of the Peace.*)
Declaration in form prescribed may be made, 200.

OFFICIAL TRUSTEE.
Act to amend the law relating to, and to constitute an office of, 114 *et seq.*
Former Act relating to, repealed, 115; save as to existing office trusts, 116.
By whom to be appointed, suspended, or removed, *ib.*
Administrator General eligible for, *ib.*
May have leave of absence, subject to conditions, *ib.*
Officiating one, may be appointed, *ib.*
May be appointed by the Deed creating the Trust, 117; and with agreed remuneration, *ib.*; and in certain cases by the Court, on petition, *ib.*, *et seq.*; and for such cases to have specified commission, 118.
Expenses of office, to be defrayed by him, 118; but not costs of litigation, *ib.*
To be sole Trustee and not appointed with any other person, 119.
Funds of, to be invested in Government Securities or as Court shall direct, *ib.*; and funds wrongly invested, to be invested properly, *ib.*
Order for appointment of to be by name of office, *ib.*
Upon death, &c., of, trust property to vest in his successor, 120.
To sue and be sued in name of office, *ib.*
To keep what books, *ib.*; such books to be open to inspection, 121.
General Rules may be made by Chief Justice for guidance of, *ib.*; such Rules to be published in Gazette, *ib.*
To deliver to Chief Justice annually a schedule of state of funds, &c.
Accounts of, to be audited, 123; by Auditors appointed by Chief Justice, *ib.*
Property belonging to infants or lunatics may be paid to, under order, 124, *et seq.*
May apply by petition for any order under Act, 124; also *cestui que* trust, *ib.*

POLICE MAGISTRATES OF CALCUTTA.—(*See Justices of the Peace of Calcutta.*)

POORWAH AND KHUDDEE.—(*Bandis.*)
Act to bring these Jaghiers under same Laws and Regulations as rest of Banda, 1 *et seq.*; and when to come into operation, 2.

PORT DUES IN AMHERST.
Act to repeal Act for levy of, from 1st May 1864, 40.

PROTECTOR OF EMIGRANTS.
To be appointed, 57; by Local Government, *ib.*; who is to hold no other office, *ib.*; his duties, *ib.*
May license Recruiters, 59.
To cause emigrant ships to be surveyed, 67; and reported upon, *ib.*; and to see that all the requirements of the Act are complied with, 69; and to make declaration, when, *ib.*, *et seq.*; and not to allow emigrant to depart who is unfit, &c., 70.
To explain to Emigrant the provisions of the Act in their favor, *ib.*; and be personally present when they embark, 71; and to compare lists with passes, *ib.*
Duty of, as to muster-rolls, 72.
To send lists to Protector at place of destination, 73.

PUBLIC CURATOR.
Estate of Minor (Bombay), when to be administered by, 137; to file inventory within six months, 138.

PUNJAB.—(*See Abkaree Revenue.*)

RECRUITER OF EMIGRANTS.
To be appointed and licensed, 59; by whom, *ib.*
License of, to be in force only a year, *ib.*; and is revocable, *ib.*; and in what form, 60; to be countersigned by whom, *ib.*
To wear a badge, *ib.*
Not to remove emigrant till after examination by Magistrate, 61, *et seq.*
Not having license, to be subject to Fine, &c., 76.
As to offences by, 76, *et seq.*

REGISTER BOOK.
What entry to be made in it, 99.
Copy of assurance to be entered in, 101.

REGISTERED INSTRUMENTS.
From what time to operate, 109.
To have priority of unregistered, 110.

REGISTERS.
What shall be kept, 106, *et seq.*; and how indexed, 107.
To be always open to inspection on what conditions, 108.

REGISTRAR-GENERAL.—(*See Registration Officers.*)
To have a seal, 93.
What instruments may be registered by him, 97; his duty in respect thereof, *ib.*, *et seq.*

REGISTRATION OF ASSURANCES.
Act to consolidate and amend the Law relating to, 89, *et seq.*
Acts and Regulations relating to, repealed, 89, 111.
General Register Offices for, to be established, 90, *et seq.*
Districts for, to be formed, 91; and notified in *Gazette*, *ib.*
Of what assurances necessary, 93; of what assurances optional, 94
suit may be brought for, if refused by Deputy Registrar, 94; within what time registration must be applied for, 95.
Into what place or office, it shall be, *ib.*, *et seq.*
If property situate in more districts than one, 97.
As to stamp payable, 93.
By whom it is to be effected and how, 98, 99.
Not to be granted in case of interlineation of assurance, 100.
What endorsement to be made at time of, 101; and how signed, *i*
Assurance to be returned after registration, 101; with what endorsement, *ib.*
Abstract of assurance to be made and forwarded to Registrar General, and how, 102.

REGISTRATION OF ASSURANCES.—(*Continued.*)
What decrees shall be registered, *ib.*; and what further is to be done after registration, 103.
As to obligations for payment of money, 105; and effect of registration of, *ib.*; and how enforceable, *ib.*
Fees for, what payable, 106.
To be made only at public office, 109.
How to be effected, if instrument executed by Government, 110.

REGISTRATION OF EMIGRANTS.
Established, 60; to be before whom, *ib.*; fee to be paid for, 61; and returned if emigrant deserts, 62.
Copy of, to be sent to whom, 61.

REGISTRATION OF MARRIAGES IN INDIA.
Prescribed, 176; but not essential to validity of marriage, *ib.*; in what place, *ib.*; and by whom, *ib.*; and in what form, *ib.*; notices of, to be returned where, *ib.*

REGISTRATION OFFICERS.—(*See Registrar Generals, District Registrars, Deputy Registrar.*)
By whom to be appointed, 91, *et seq.*
Duties of, to be performed by whom in case of absence of, 92.
Salaries of, to be fixed by Governor-General in Council, *ib.*
May summon parties before him, and compel their attendance, 100.
As to their subordination, 108, *et seq.*

REGULATIONS, *amended, extended, repealed.*
(*Bengal.*)
1793 R. 4 s. 15 (Law Officers), partially repealed, 43.
" " 12 (Ditto) repealed, *ib.*
" " 36 (Registration of Deeds) ditto, 111.
" " 39 (Law Officers) ditto, 43.
" " 8 s. 11 (Ditto) partially repealed, 43.
" " 11 (Ditto) repealed, *ib.*
1795 " 28 (Registration of Deeds) ditto, 111.
" " 49 (Law Officers) ditto, 45.
1798 " 2 s. 4 (Ditto) ditto, *ib.*
1803 " 3 s. 16 c. 1 (Ditto) partially repealed, *ib.*
" " 11 (Ditto) repealed, 46.
" " 17 (Registration of Deeds) ditto, 111.
1805 " 12 s. 33 (Ditto) ditto, 112.
" " 17 (Ditto) ditto, *ib.*
1806 " 10 s. 10 (Law Officers) partially repealed, 46.
1809 " 3 ss. 2, 3 (Military Cantonments) repealed, 161.
" " 8 ss. 3, 4 (Law Officers) ditto, 46.
1810 " 20 s. 12 (Military Cantonments) partially repealed, and ss. 13 to 18 and 21 repealed, 161.
1812 " 20 (Registration of Deeds) repealed, 112.
1817 " 18 ss. 1, 2, 4, 6 (Law Officers) partially repealed, 47.
1824 " 4 (Registration of Deeds) repealed, 112.
1826 " 11 s. 1 to 4 (Law Officers) partially repealed, 47.
1829 " 3 s. 7 (Ditto) repealed, 47.
1832 " 7 s. 4 (Registration of Deeds) ditto, 112.

(*Bombay.*)
1827 R. 2 s. 34 c. 2 and 3 and s. 35 (Law Officers) repealed, 48.
" " 9 (Registration of Deeds) ditto, 112.
" " 26 (Law Officers) ditto, 48.
1828 " 13 (Registration of Deeds) ditto, 112.

(*Madras.*)
1802, R. 11 (Law Officers) repealed, 48.
,, ,, 17 (Registration of Deeds) ditto, 112.
1808 ,, 3 (Law Officers) ditto, 48.
1822 ,, 7 s. 3 c. 2 (Ditto) ditto, *ib.*
1828 ,, 3 (Ditto) *ib.*
1831 ,, 11 (Registration of Deeds) ditto, 112.

Request, Courts of.—(*See Military Courts of Request.*)

Resident at Aden.—(*See Aden, Resident at.*)

Roads and Bridges.
Act to alter the rates of tolls on, 84.
Tolls on, may be compounded for, 85.

Salt, Customs Duties.
Act to extend them to Central Provinces, 29, *et seq.*; what Acts are extended, 30; to be administered by whom, *ib.*

Senior Marriage Registrar.
His duty as to notices of marriage, 173.

Scinde.—(*See Code of Civil Procedure.*)

Seychelles.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib., et seq.*
Emigrants to, may be taken to Quarantine Station, when, 73.

Ships.—(*See Emigrant Ship. Master of Emigrant Ship.*)

Small Cause Court, Kurrachee.
Act to give validity retrospectively to establishment of, 21, *et seq.*

St. Croix.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib., et seq.*

St. Kitt's.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib., et seq.*

St. Lucia.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib., et seq.*

St. Vincent.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib., et seq.*

Tolls on Roads and Bridges.
Act relating to, 84, *et seq.*
May be compounded for, 85.
Schedule of rates of, 86.

Treaty with Burmah.
Act to empower the Governor-General in Council to give effect to, 50.
Acts done under, by Collectors, &c., retrospectively legalized, *ib.*

Trinidad.—(*See Emigration of Native Laborers.*)
Emigration may be to, 55; subject to what conditions, *ib., et seq.*

Trustee.—(*See Official Trustee.*)

Trust Property in hands of Official Trustee.
As to investment of, 119; and transfer of, *ib.*
Belonging to infant or lunatic may be paid to Administrator-General, 125.

Whipping, Punishment of.
Act for establishing, 23, *et seq.*
For what offences it may be applied, 24, *et seq.*; for second offences of same kind may be either in lieu of or in addition to other punishment, 25; and when in addition to only, 26; may be either in lieu of or addition, in case of juvenile offenders, 27.

WHIPPING, PUNISHMENT OF.—(*Continued*)
Not to be applied to females, *ib.*
Not to be applied by officers inferior to Subordinate Magistrates, *ib.*
May be extended to frontier Districts, 27.
If sentenced by a Court whose sentences are subject to revision, not to be inflicted for 15 days, 28.
To be inflicted by what instrument, *ib.*
To be carried out in presence of Medical Officer, *ib.*; who may stop the punishment for medical reasons, *ib.*
Not to be given in instalments, *ib.*

WILL, CODICIL, AUTHORITY TO ADOPT A SON.—(*See Registration of Assurances.*)
Registration of optional, 94; and registration of, how to be obtained, 103; and how entered, 104; and how withdrawn, *ib.*

UNIVERSITY ALLAHABAD

POORWAH AND KHUDDEE IN BANDA.

ACT No. I. OF 1864.

(*Received the assent of the G. G. on the 24th February* 1864).

Recites expediency of administering Poorwah and Khuddee under the General Regulations.

1—2. Extends to these Jagheers the Laws and Regulations under which the rest of the district of Banda is administered; except (2) that pending suits and proceedings shall be continued as if this Act had not passed.

3—5. But remands made after decision and on appeal to go to same Court as if prooceedings were commenced after this Act; and (4) same as to execution of decrees; and (5) same as to appeals after from decrees and orders before the passing of the Act.

6. Act to take effect from date to be fixed by Lieutenant-Governor of the North-Western Provinces.

Preamble.

WHEREAS the Jagheers of Poorwah and Khuddee in the District of Banda are not subject to the General Regulations and it is expedient that the said Jagheers should be administered on the same system as prevails in the rest of the District; It is enacted as follows:—

Laws and Regulations for internal administration of Banda to have full force in Poorwah and Khuddee.

I. The Laws and Regulations established for the internal administration of the District of Banda shall have full force and effect in the Jagheers of Poorwah and Khuddee, and the administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Jagheers, are hereby vested in the Officers who are, or may hereafter be appointed by the Lieutenant-Governor of the North-Western Provinces for the said District of Banda.

Saving as to suits pending at the time of passing of this Act.

II. All suits and proceedings, whether in appeal or otherwise, arising in the said Jagheers, and which, at the time of this Act coming into operation, shall be pending in any Court, or before any Officer, shall be heard and determined in the same manner as if this Act had not been passed.

Suits remanded by any Appellate Court.

III. Any suit which, before the coming into operation of this Act, shall have been determined and which shall have been or shall be remanded by any Appellate Court, shall be tried before the Court which for the time being would be competent to try such a suit if instituted after the passing of this Act.

Execution of decrees.

IV. All applications for execution of decrees or orders, which but for the passing of this Act would have been made to any Court or Officer existing at the time of the passing of this Act, shall be made to the Court or Officer who would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the coming into operation of this Act.

Appeals from decrees or orders passed before passing of Act.

V. All appeals from decrees or orders passed before the coming into operation of this Act shall be received, heard, and determined by the Court or Officer who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the coming into operation of this Act.

Commencement of Act.

VI. This Act shall take effect from such date as the Lieutenant-Governor of the North-Western Provinces, shall fix by an order to be published in the Official Gazette.

ADMINISTRATION OF JUSTICE, ADEN.

ACT No. II. OF 1864.

(*Received the assent of the G. G. on the* 12*th February* 1864.)

Recites expediency of providing a procedure for the Resident at Aden.

1 Interprets the words "Resident," "Assistant Resident," and "Court of the Resident," &c.

2—4. Vests the administration of Civil Justice in the Court of the Resident; and (3) gives him original jurisdiction unlimited, with power (4) to distribute the business commenced in his Court among his Assistants, whose jurisdiction also is unlimited.

5—7. Gives an appeal from Assistant, in what suits relating to immoveable property, to Resident; who (6) on such appeals shall have powers of

district Judge, &c.; and (7) no appeal to lie from Assistant in suits of less value.

8—13. No appeal at all to lie from Resident, but in suits for value exceeding Rs. 1000, whether before him on appeal or otherwise. Resident may state case for opinion of High Court on any question of Law or construction of a document; and (9) may pass orders subject to such opinion; and (10) cases so referred to High Court to be decided by two Judges; on (11) argument; and (12) decision of High Court to be transmitted under seal of the Court, &c., to Resident; and (13) costs to be costs in the cause.

14. Gives the Resident all the powers of Small Cause Court in causes within Small Cause Court Act.

15—16. In Civil Justice, the Law to be the Laws and Regulations of the Bombay Presidency; and (16) the procedure to be the Code of Civil Procedure, except where otherwise provided.

17—19. Vests the administration of Criminal Justice in the Resident, and (18) Governor of Bombay may invest Assistants with powers of Magistrate, &c; (19) and Assistant may punish with imprisonment not exceeding six months and fine not exceeding Rupees 500, not appealable, but subject to special discretionary order of Resident; and appeal to lie in all cases where the punishment exceeds that extent.

20. Gives the Resident all the powers of a Court of Session, and of a Magistrate, except in cases triable before himself at a Court of Session.

21—22. Directs the Resident to make general gaol deliveries at convenient periods, and empowers him to try European British subjects, except for offences punishable with death; and (22) for such offences, European British subjects to be committed for trial to the High Court.

23—27. Establishes the Code of Criminal Procedure for Aden; and (24) entitles Europeans and Americans to a jury; and (25) provides for making a Jury List; and (26) for the publication of such List; subject (27) to all the provisions of the Code respecting Juries.

28. Sentence of death not to be carried out till confirmed by High Court, which may commute the sentence.

29. No appeal to lie in Criminal cases.

30. Provides for a review on points of Law, or on certificate of Advocate General.

31. Empowers the High Court to make general Rules for the Court of the Resident, &c.

Preamble.

WHEREAS the administration of Civil and Criminal Justice at Aden is now entrusted to the Resident and in subordination to him to the Assistant Resident; and whereas Her Majesty has by Her Letters Patent, dated the twenty-second June 1860, appointed the Re-

sident at Aden to be Judge of Her Majesty's Vice Admiralty Court at Aden for the purposes of and according to the provisions of the Statute 12 and 13 Vic, c. 84; and whereas the Criminal law to be administered at Aden is provided for by the Indian Penal Code, but the law to be administered at Aden in Civil matters and the precise nature of the Criminal and Civil jurisdiction of the Resident, and the proper course of procedure in his Court, have never been defined, and it is expedient that they should be provided for; and whereas at present judgments and proceedings of the Resident at Aden are not subject to the superintendence or revision of any Court of Justice, except so far as they are subject to appeal to Her Majesty in Council, and it is expedient to provide for the superintendence or revision of certain of such judgments and proceedings by the High Court at Bombay: It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto, that is to say:—

"Resident."

The word "Resident" denotes the Chief Civil Officer at Aden appointed by the Government by whatever designation such Officer may be called, and includes any Acting Resident or Officer acting temporarily as such Chief Civil Officer.

"Assistant Resident."

The words "Assistant Resident" denote any Officer appointed by the Government to assist the Resident at Aden by whatever designation such Officer may be called, and includes an Acting Assistant.

"Court of the Resident."

The words "Court of the Resident" include the Court of any Assistant Resident.

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

CIVIL JURISDICTION.

Administration of Civil Justice vested in the Court of the Resident.

II. The administration of Civil Justice at Aden is hereby declared to be vested in the Court of the Resident.

Resident may try, in the first instance, all cases instituted in the Court of the Resident.

III. The Resident may hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute.

Assistant Residents may try cases allotted to them.

IV. The Assistant Residents shall have power to hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute. The Resident may from time to time direct in what manner the cases instituted in his Court shall be distributed amongst the Assistant Residents.

Appeal in what cases to lie from Assistant Resident to Resident.

V. When any suit which relates to immoveable property, or in which the claim, estimated according to any Law for the valuation of claims for the time being in force, shall exceed five hundred Rupees in value, is tried in the first instance by an Assistant Resident, an appeal shall lie from his decision to the Resident. An appeal shall also lie to the Resident from all orders passed by an Assistant Resident in the execution of a decree or other order from which, had the order been passed by a Court subordinate to the Court of a District Judge in the Presidency of Bombay, an appeal would have been allowed to the District Judge, as well as from all orders passed by an Assistant Resident in cases other than suits as defined in the Code of Civil Procedure.

Powers of Resident in hearing appeals.

VI. For the hearing and determination of appeals from decisions and orders under the last preceding Section, the Resident shall (save as herein is otherwise provided) possess and exercise the powers of a District Judge in the Bombay Presidency with reference to the Courts subordinate to him.

No appeal in other cases.

VII. No appeal shall lie from the decision of an Assistant Resident in any suit not relating to immoveable property in which the claim estimated as aforesaid shall not exceed five hundred Rupees in value; but the Resident may, within the period allowed for appeal in appealable cases, call for any proceedings of the Assistant Resident at any stage thereof, and may pass such orders thereon as he may think fit.

No appeal from Resident.

But he may refer question of law, &c., to High Court.

VIII. No appeal shall lie from any decision or order of the Resident given or made by him, whether in the exercise of his original jurisdiction, or in the exercise of his jurisdiction as a Court of Appeal or of Revision; but if in the trial of any suit in which the claim estimated as aforesaid shall not exceed one thousand Rupees in value, any question of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, on which the Resident shall entertain doubts, the Resident may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with his own opinion, for the decision of the High Court of Judicature at Bombay: and if in the trial of any suit or the hearing of an appeal in any suit in which the claim, estimated as aforesaid, shall exceed one thousand Rupees in value, any question of fact or of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, the Resident shall, on the application of any of the parties to the suit, or he may of his own motion, draw up a statement of the case and submit it with his own opinion for the decision of the said High Court.

Resident may pass decree contingent upon the opinion of the High Court, pending which execution not to issue.

IX. The Resident may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued

in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

Full bench of the High Court to decide cases referred under this Act.

X. Cases referred for the opinion of the High Court shall be heard by two or more Judges of that Court. Before giving judgment the High Court may call for and peruse the whole or any part of the proceedings of the Court of the Resident, but shall not be bound so to do.

Parties may appear and be heard in person or by pleader.

XI. The parties to the case may appear and be heard in the High Court in person or by a pleader.

Decision of High Court how to be transmitted.

XII. The High Court, when it has heard and considered the case, shall transmit to the Resident a copy of its judgment, under the seal of the Court and the signature of the Registrar; and the Resident shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

XIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Resident to have powers of a Small Cause Court.

XIV. When any suit tried in the first instance by the Resident is of such a nature as to be cognizable under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), the Resident shall, in such suit, have all the powers conferred on, and shall be guided by all the provisions applicable to, a Court of Small Causes constituted within the Presidency of Bombay under the said Act or any other Act for the time being in force not being an Act relating to Courts of Small Causes in the Presidency Towns: and every Assistant Resident who shall have been vested by the Governor of Bombay in Council with the powers of a Judge of a Court of Small Causes as defined in the said Act XLII of 1860 or any Act passed in supersession thereof, shall have the like powers and be guided by the like provisions in any suit tried by him in the

first instance and of a nature cognizable under the said Act XLII of 1860, any thing in Section V of this Act contained to the contrary notwithstanding.

Administration of Civil Justice to be according to spirit and principles of the Bombay Laws and Regulations.

XV. In the administration of Civil Justice, the Court of the Resident shall be guided by the spirit and principles of the Laws and Regulations in force in the Presidency of Bombay, and administered in the Courts of that Presidency not established by Royal Charter, and in the High Court in the exercise of its jurisdiction as a Court of appeal from those Courts.

CIVIL PROCEDURE.

Code of Civil Procedure applicable.

XVI. Except as otherwise provided in this Act, the proceedings in suits and cases of every description between party and party brought in the Court of the Resident shall be regulated by the Code of Civil Procedure, and by any other Act or Acts in relation to Civil Procedure in force for the time being.

CRIMINAL JURISDICTION.

Administration of Criminal Justice vested in Court of the Resident, subject to proviso.

XVII. The administration of Criminal Justice at Aden is hereby declared to be vested in the Court of the Resident, save as is herein otherwise provided.

Governor of Bombay may give Assistant Residents certain powers.

XVIII. The Governor of Bombay in Council may invest any Assistant Resident with the powers of a Magistrate, or of a subordinate Magistrate of the first or second class as described in the Code of Criminal Procedure, and such Assistant Resident shall exercise such powers under the said Code, but subject to the provisions of this Act.

Appeal from Assistant Resident to Resident, in what cases.

XIX. In every case tried by an Assistant Resident in which the punishment awarded shall be imprisonment for a period exceeding six months with or without fine, or shall be only a fine exceeding five hundred Rupees, an appeal shall lie from the sentence of the Assistant Resident to the Resident.

No appeal shall lie from the sentence of an Assistant Resident in any case in which the punishment awarded shall be imprisonment for a period not exceeding six months with or without fine, or shall be only a fine not exceeding five hundred Rupees; but the Resident may in all cases, within the period allowed for appeal in appealable cases, call for any proceedings whatever of the Assistant Resident at any stage thereof, and may pass such order thereon as he may think fit.

Resident to exercise powers of Court of Session, and also of a Magistrate.

XX. The Resident shall except as in this Act is otherwise provided exercise all the powers of a Court of Session as defined in the Code of Criminal Procedure, and he may also when it shall seem to him proper so to do, exercise the powers of a Magistrate as defined in the said Code, except in cases triable before himself as a Court of Session.

As a Court of Session, to hold gaol deliveries.

XXI. The Resident in the exercise of his powers as a Court of Session shall hold gaol deliveries at convenient periods, of which due notice shall be given, for the trial of all persons charged with offences punishable under the Indian Penal Code, or under any other law in force for the time being, who may be committed to take their trial before him as a Court of Session. Provided that the Resident shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court at Bombay. In all other cases the commitments made within the limits of the jurisdiction of the Court of the Resident for offences punishable under the Indian Penal Code, shall be made to the Court of the Resident.

European British subjects charged with offences punishable with death, to be committed for trial to High Court at Bombay.

Commitment and trial of such subjects, when charged with offences other than those punishable with death.

XXII. If any European British subject shall be charged in Aden with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for

trial, such European British subject shall be committed to the Court of the Resident, and shall be tried by the Resident.

CRIMINAL PROCEDURE.

Proceedings in Criminal cases how to be regulated.

XXIII. Save as in this Act otherwise provided, the proceedings in all Criminal cases of any description brought in any Court in Aden shall be regulated by the Code of Criminal Procedure.

Trial of European or American by the Resident to be by Jury.

XXIV. Criminal trials before the Resident as a Court of Session, in which a European (whether a British subject or not) or an American is the accused person or one of the accused persons, shall be by jury, and in such case the jury, if such European or American shall desire it, shall consist of at least one half Europeans or Americans, if such a jury can be procured.

List of Jurors.

XXV. The Resident shall from time to time prepare and make out in alphabetical order, a list of persons residing at Aden who are in the judgment of the Resident qualified from their education and character to serve as Jurors. The list shall contain the names, places of abode, and quality or business of every such person, and shall mention the race to which he belongs.

Publication of List.

XXVI. Copies of such list shall be stuck up in the Court of the Resident, and every such copy shall have subjoined to it a notice stating that objections to the list will be heard and determined by the Resident at a time and place mentioned in the notice.

Provisions of Criminal Procedure Code to apply to Jurors.

XXVII. All the provisions of the Criminal Procedure Code as to Jurors and the list of Jurors shall be applied, so far as the same can be applied respectively, to Jurors and the list of Jurors under this Act: provided that no person shall be exempt from the liability to serve as a Juror on the ground only of his being in the Military Service: provided also that the Jurors shall be summoned by the Resident.

Persons in Military Service not exempted from serving as Jurors.

Execution or commutation of sentence of death.

XXVIII. If on any trial, sentence of death shall be passed by the Resident, such sentence shall not be carried into execution until it shall have been confirmed by the High Court at Bombay. It shall be lawful for the High Court at Bombay, in any case in which it shall seem proper so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order of Resident, but he may reserve points for High Court.

XXIX. No appeal shall lie from an order or sentence passed by the Resident in any Criminal case. But it shall be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court.

Review of case by High Court.

XXX. On such point or points of law being so reserved as in the last preceding Section mentioned, or on its being certified by the Advocate-General at Bombay that in his judgment there is an error in the decision of a point or points of law decided by the Resident, or that a point of law decided by the said Resident should be further considered, the said High Court shall have full power and authority to review the case or such part of it as may be necessary, and finally determine such point of law, and thereupon to pass such judgment and sentence as to the said High Court shall seem right.

GENERAL RULES.

High Court to frame rules for Resident's Court.

XXXI. The High Court at Bombay shall have power to make and issue general rules for regulating the practice and proceedings of the Court of the Resident, and also to frame forms for every proceeding in the said Court for which the said High Court shall think it necessary that a form should be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by the Court of the Resident, and from time to time to alter any such rule or form; provided that such rules and forms shall not be inconsistent with the provisions of this Act, or of any other law in force.

FOREIGNERS.

ACT. No. III. OF 1864.

(*Received the assent of the G. G. on the* 12*th February* 1864.)

Recites the expediency of enabling the Government to prevent Foreigners residing, &c., in British India.

1 Interprets the words "British India," "Local Government," Foreigner," Magistrate of the district," "Vessel," and words of gender and number.

2. On the question under this Act, whether a person is a Foreigner, he is to prove he is not.

3—4. Empowers the Government of India or any Local Government to order a Foreigner to remove himself out of India; and (4) any Foreigner not carrying out such order, or returning without license, may be apprehended and detained.

5. Empowers the Governor-General in Council to put this Act in operation in any part of India, by a Notification in the *Gazette of India*, except as against Foreign Ministers and Consuls.

6—8. Requires Foreigners on arrival at any place or port under the operation of the Act to report himself to the Commissioner of Police, &c.; which report (7) shall be in writing, with particulars specified, but (8) not to apply to Commanders of vessels, so long as they remain such.

9. Foreigner not reporting himself, may be dealt with as a Foreigner without license.

10—13. Where this Act is in force, no Foreigner to pass or travel without license; (11) under the signature of officer empowered to sign; and (12) which shall state particulars specified; and (13) may be subject to conditions, and be revoked.

14—16. Foreigner travelling without license, or contrary to license, may be apprehended without warrant, by any Magistrate, European Commissioned Officer, or Member of a Volunteer Corps, whilst on duty, or Police Officer; and (15) shall be delivered over as soon as possible to Magistrate, who shall report to Government, &c.; but (16) may be admitted to bail.

17. Government may order deportation of person apprehended.

18—19. Empowers the Government of India, and (19) the Local Governments, to prohibit persons not being natural-born subjects of Her Majesty, from travelling, &c., without license

20—23. Empowers specified officers to board vessels to ascertain if Foreigners be on board, and requires Commanders to give information; and (21) subjects Commander to penalty if he give false information; and (22) to fine if he refuse to comply with Act; and (23) makes intentional obstruction of officer an offence.

24. Fines under the Act may be recovered, how.

25. Empowers the Governments to exempt any person or class of persons from the operation of the Act.

Preamble.

WHEREAS it is expedient to make provision to enable the Government to prevent the subjects of Foreign States from residing or sojourning in British India, or from passing through or travelling therein, without the consent of the Government; It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India."

The words "British India" shall denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chap. 106, entitled "An Act for the better Government of India":

"Local Government."

The words "Local Government," shall denote the persons authorized to administer the Executive Government in any part of British India, or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall, by an order of the Governor-General of India in Council published in the Gazette of India, be authorized to exercise the powers vested by this Act in a local Government:

"Foreigner."

The word "Foreigner" shall denote a person, not being either a natural-born subject of Her Majesty within the meaning of the Statute 3 and 4 William IV., Chap. LXXXV., Section 81, or a Native of British India:

"Magistrate of the District."

The words "the Magistrate of the District," shall denote the Chief Officer charged with the Executive administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief

Officer charged with the Executive administration is styled, or, in the absence of such Officer from the Station at which his Court is usually held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure:

"Vessel."

The word "Vessel" shall include any thing made for the conveyance by water of human beings or property:

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender.

Words importing the masculine gender shall include females.

Proof of being a Foreigner.

II. If a question shall arise whether any person alleged to be a Foreigner and to be subject to the provisions of this Act is a Foreigner or not, or is or is not subject to the provisions of this Act, the onus of proving that such person is not a Foreigner, or is not subject to the provisions of this Act, shall lie upon such person.

Government may order any Foreigner to remove himself.

III. The Governor-General of India in Council may, by writing, order any Foreigner to remove himself from British India, or to remove himself therefrom by a particular route to be specified in the order; and any local Government may, by writing, make the like order with reference to any Foreigner within the jurisdiction of such Government.

Foreigner refusing to remove, or returning without license after removal, may be apprehended and detained.

IV. If any Foreigner ordered to remove himself from British India, or ordered to remove himself therefrom by a particular route, shall neglect or refuse so to do; or if any Foreigner, having removed himself from British India in consequence of an order issued under any of the provisions of this Act, or having been removed from British India under any of the said provisions, shall wilfully return thereto without a license in writing granted by the Governor-General of India in Council or by the local Government under

whose order he shall have removed himself or been removed,—such Foreigner may be apprehended and detained in safe custody, until he shall be discharged therefrom by order of the Governor-General of India in Council, or of the local Government within whose jurisdiction he shall be so apprehended or detained, upon such terms and conditions as the said Governor-General of India in Council or local Government shall deem sufficient for the peace and security of British India, and of the Allies of Her Majesty, and of the neighbouring Princes and States.

Governor-General may order all the provisions of this Act to be in force in British India, or in any part thereof.

V. Whenever the Governor-General of India in Council shall consider it necessary to take further precautions in respect of Foreigners residing or travelling in British India or any part thereof, it shall be lawful for the Governor General of India in Council, by a Notification published in the Gazette of India, to order that the provisions of this and the subsequent Sections of this Act shall be in force in British India, or in such part thereof as shall be specified in such Notification, for such period as shall be therein declared; and thereupon, and for such period, the whole of this Act including this and the subsequent Sections shall have full force and effect in British India or such part thereof as shall have been so specified. The Governor-General of India in Council may from time to time, by a Notification published as aforesaid, cancel or alter any former Notification which may still be in force, or may extend the period declared therein. Provided that none of the provisions of this or the subsequent Sections of this Act shall extend to any Foreign Minister duly accredited by his Government; to any Consul or Vice-Consul; to any person under the age of fourteen years; or to any person in the service of Her Majesty.

Proviso.

Every Foreigner to report his arrival in India in certain cases.

VI. Every Foreigner on arriving in any part of British India in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding Section, from any port or place not within British India or from

any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a Presidency Town, forthwith report himself to the Commissioner of Police of such Town, or, if he arrive at any other place then he shall forthwith report himself to the Magistrate of the District, or to such other Officer as shall be appointed to receive such reports, by the Governor-General of India in Council or by the local Government of such place.

What to be stated in the report.

VII. The report shall be in writing and shall be signed by the person reporting himself, and shall specify his name or names, the Nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such Presidency Town or other place. The report shall be recorded by the Officer to whom it is made.

Foreigners being Masters of vessels or employed therein, to report themselves when they cease to be so employed.

VIII. The provisions of the last two preceding Sections shall not extend to any person being the Master or Commander of a vessel or employed therein, but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.

Foreigners neglecting to report themselves, may be dealt with in like manner as Foreigners travelling without a license.

IX. If any Foreigner shall neglect to report himself as required by this Act, he may be dealt with in the manner hereinafter provided in respect of Foreigners travelling without a license.

No Foreigner to travel in India without a license.

X. No Foreigner shall travel in or pass through any part of British India in which all the provisions of this Act are for the time being in force without a license.

License by whom to be granted.

XI. Licenses under this Act may be granted by the Governor-General of India in Council or by any of the local Governments, under the signature of a Secretary to the Government of India or to such local Government as the case may be, or by such other Officers

as shall be specially authorized to grant licenses by the Governor-General of India in Council, or by any of the local Governments.

What to be stated in license.

XII. Every such license shall state the name of the person to whom the license is granted, the Nation to which he belongs, the District or Districts through which he is authorized to pass or the limits within which he is authorized to travel, and the period (if any) during which the license is intended to have effect.

License may be granted subject to conditions, and may be revoked.

XIII. The license may be granted subject to such conditions as the Governor-General of India in Council or the local Government may direct, or as the Officer granting the license may deem necessary. Any license may be revoked at any time by the Governor-General of India in Council, or by the local Government of any part of British India in which all the provisions of this Act are for the time being in force and in which the Foreigner holding the same may be, or by the Officer who granted the license.

Foreigner travelling without or contrary to the conditions of license, may be apprehended.

XIV. If any Foreigner travel in or attempt to pass through any part of British India without such license as aforesaid, or beyond the Districts or limits mentioned therein, or after such license shall have been revoked, or shall violate any of the conditions therein specified, he may be apprehended without warrant by any Officer exercising any of the powers of a Magistrate, or by any European Commissioned Officer in the service of Her Majesty, or by any member of a Volunteer Corps enrolled by authority of Government whilst on duty, or by any Police Officer.

Procedure upon apprehension.

XV. If any person be apprehended by a person not exercising any of the powers of a Magistrate and not being a Police Officer, he shall be delivered over as soon as possible to a Police Officer, and forthwith carried before the Magistrate of the District.

Magistrate to report to Government.

Whenever any person shall be apprehended by or taken before the Magistrate of the District, such Magis-

trate shall immediately report the case to the local Government to which he is subordinate, and shall cause the person brought before him to be discharged, or to be conveyed to one of the Presidency Towns, or pending the orders of such Government to be detained.

Persons apprehended may be admitted to bail.

XVI. Any person apprehended or detained under the provisions of this Act, may be admitted to bail by the Magistrate of the District, or by any Officer authorized to grant licenses, and shall be put to as little inconvenience as possible during his detention in custody.

Removal of persons apprehended.

XVII. The local Government of any part of British India in which all the provisions of this Act are, for the time being in force, may order any person apprehended or detained under the provisions of this Act to remove himself from any such part of British India by sea or by such other route as the said local Government may direct; or the said local Government may cause him to be removed from such part of Britsh India by such route and in such manner as to such local Government shall seem fit. The Governor-General of India in Council may exercise all the powers given by this Section to any local Government.

Governor-General may prohibit persons not being natural-born subjects from travelling or passing through any part of India without a license.

XVIII. The Governor-General of India in Council may by order prohibit any person or any class of persons not being natural-born subjects of her Majesty within the meaning of the Statute 3 and 4 William IV, chap. LXXXV, Section 81, from travelling in or passing through any part of British India in which all the provisions of this Act may for the time being be in force, and from passing from any part thereof to another without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII in the same manner as if he were a Foreigner:

and the Governor-General of India in Council may order such person to be detained in safe custody or under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Also the local Governments within their respective jurisdictions.

XIX. The local Government of any Presidency or place in which all the provisions of this Act may for the time being be in force, may by order prohibit any person or any class of persons not being natural-born subjects of Her Majesty within the meaning of the Statute 3 and 4 William IV, chap. LXXXV Section 81, from travelling in or passing through such Presidency or place or any part thereof, and from passing from any part thereof to another, without a license to be granted by such Officer or Officers as shall be specified in the order; and if any person so prohibited shall wilfully disobey such order, he may be apprehended without warrant by any of the Officers specified in Section XIV of this Act, and carried before the Magistrate of the District, and dealt with under the provisions of Section XVII in the same manner as if he were a Foreigner; and the local Government may order such person to be detained in safe custody or under the surveillance of the Police so long as it may be deemed necessary for the peace and security of British India or any part thereof.

Certain Officers may board vessels to ascertain whether Foreigners are on board.

XX. It shall be lawful for the Commissioner of Police, or for the Magistrate of the District, or for any Officer appointed to receive reports as mentioned in the sixth Section of this Act, or for any Police Officer under the authority of such Commissioner or Magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any Foreigner bound to report his arrival under the said Section VI of this Act is on board of such vessel; and it shall be lawful for such Commissioner of Police, Magistrate, or other Officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose; and the Master or Commander of such vessel

Master of vessel to furnish list of passengers, and to give information respecting them.

shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such Commissioner of Police, Magistrate, or other Officer as aforesaid, deliver to him a list in writing of the passengers on board, specifying the ports or places at which they embarked, and the ports or places of their disembarkation or intended disembarkation, and answer to the best of his knowledge all such questions touching the passengers on board the said vessel, or touching those who may have disembarked in any part of British India, as shall be put to him by the Commissioner of Police, Magistrate, or other Offier as aforesaid. If any Foreigner on board such vessel in any part of British India shall refuse to give an account of his objects of pursuit in India, or if his account thereof shall not be satisfactory, the Officer may refuse to allow him to disembark, or he may be dealt with in the same manner as a Foreigner travelling in British India without a license.

Foreigner refusing to give account of himself, not to be allowed to disembark.

XXI. If the Master or Commander of a vessel shall wilfully give a false answer to any question which by Section XX of this Act he is bound to answer, or shall make any false report, he shall be held to have committed the offence specified in Section 177 of the Indian Penal Code.

Penalty for false answer or report.

XXII. If the Master or Commander of any vessel shall wilfully neglect or refuse to comply with the requisitions of this Act, he shall, on conviction before the Magistrate of the District or a Justice of the Peace, be liable to a fine not exceeding two thousand Rupees.

Penalty for neglect by Master of vessel to comply with requisitions of Act

XXIII. Whoever intentionally obstructs any Officer in the exercise of any of the powers vested in him by this Act, shall be held to have committed the offence specified in Section 186 of the Indian Penal Code.

Penalty for obstructing Officers.

Fines imposed under this Act how to be recovered.

XXIV. All fines imposed under this Act may, according as they shall have been imposed for offences committed within or for offences committed beyond the limits of the Towns of Calcutta, Madras and Bombay, be recovered by a Magistrate of Police or by the Magistrate of the District in the manner prescribed in Section XXVI of Act XLVIII of 1860 (*to amend Act XIII of* 1856 *for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.*

Persons may be exempted from provisions of this Act.

XXV. The Governor-General of India in Council, or the local Government of any part of British India in which this Act may for the time being be in force, may exempt any person, or any class of persons, either wholly or partially or temporarily or otherwise, from all or any of the provisions of this Act contained in any of the Sections subsequent to Section V, and may at any time revoke any such exemption.

SMALL CAUSE COURT.—KURRACHEE.

ACT No. IV. OF 1864.

(*Received the assent of the G. G. on the* 18*th February* 1864.)

Recites that Small Cause Court was established without the previous sanction of the Government of India, and doubts as to the validity of its proceedings before 28th November 1863.

1. Establishes its competency as a Court, from the 28th November 1863.

Preamble.

WHEREAS the Court of Small Causes of Kurrachee was constituted by the Governor in Council of Bombay on the fifth day of July 1861 without the previous sanction of the Governor-General of India in Council as required by Section 1 of Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*) having been given: and whereas the sanction of the Governor-General of India in Council to the

constitution of the said Court was granted on the twenty-eighth day of November 1863: and whereas doubts are entertained as to the validity of the orders and decisions passed and the proceedings held by the said Court before the twenty-eighth day of November 1863, and it is desirable that such doubts should be removed; It is enacted as follows:—

Sanction given by Governor-General to constitution of Small Cause Court at Kurrachee to have effect as if given before 5th July 1861.

I. The sanction given by the Governor-General of India in Council on the twenty-eighth day of November 1863 to the constitution of the Court of Small Causes of Kurrachee, shall have the same effect as if it had been given before the fifth day of July 1861: and no order or decision passed, and no proceeding held by the said Court on or after the said fifth day of July 1861, and before the said twenty-eighth day of November 1863, shall be deemed to be invalid merely by reason of such order or decision having been passed, or such proceeding having been held, without the sanction of the Governor-General of India in Council to the constitution of the said Court having been previously given.

CODE OF CIVIL PROCEDURE.—SCINDE.

ACT No. V. OF 1864.

(*Received the assent of the G. G. on the* 18*th February* 1864.)

Recites that the Code of Civil Procedure was extended, to Scinde from 1st January 1862, without the previous sanction of the Government of India, and doubts as to the validity of proceedings under the Code for the want of that sanction.

1. Retrospectively gives validity to proceedings according to the Code, from 1st January 1862.

Preamble.

WHEREAS the Province of Scinde is a part of the territories subordinate to the Government of Bombay, but not subject to the General Regulations of Bengal, Madras, and Bombay: and whereas the Code of Civil Procedure, subject to certain restrictions, limitations, and provisos, was on and from the first day of January 1862 extended by the Governor in Council of Bombay to the said Province, without the previous sanction of the Governor-

General of India in Council as required by Section 39 of Act XXIII of 1861 (*to amend Act VIII of* 1859): and whereas the Governor-General of India in Council on the twenty-eighth day of November 1863 gave his sanction to the extension of the Code of Civil Procedure, subject to the said restrictions, limitations, and provisos, to the said Province: and whereas doubts are entertained as to the validity of orders and decisions passed and proceedings held by the Courts in Scinde under the said Code of Civil Procedure before the grant of the sanction of the Governor-General of India in Council as aforesaid: It is enacted as follows:—

Sanction given by Governor-General to the extension of the Code of Civil Procedure to Scinde, to have effect as if given before 1st January 1862.

1. The sanction given by the Governor-General of India in Council on the twenty-eighth day of November 1863 to the extension of the Code of Civil Procedure to the Province of Scinde, shall have the same effect as if it had been given before the first day of January 1862: and no order or decision passed and no proceeding held by any Court in the said Province on or after the said first day of January 1862 and before the said twenty-eighth day of November 1863, shall be deemed to be invalid merely by reason of such order or decision having been passed or of such proceeding having been held under the said Code of Civil Procedure as extended to the said Province by the Governor in Council of Bombay as aforesaid without the sanction of the Governor-General of India in Council.

WHIPPING ACT.

ACT No. VI. OF 1864.

(*Received the assent of the G. G. on the* 18*th February* 1864.)

Recites the expediency of introducing the punishment of whipping.

1. Adds the punishment of whipping to the punishments described in Section 53 of the Indian Penal Code.

2. Whipping may be ordered in lieu of any other punishment, under the Indian Penal Code, for specified offences—*viz.*, Theft, under Sections 378, 380, 381, 382: Extortion, under Sections 388, 389: Dishonestly receiving stolen property, under Sections 411, 412: Lurking, House Trespass, or House break-

ing, under Sections 443, 445: Lurking, House Trespass by Night, and House breaking by Night, under Sections 444, 446.

3. And on second conviction of these offences, whipping may be ordered either in lieu of, or in addition, to other punishment.

4. Whipping may be ordered on second conviction, in addition to any other punishment under the Code for the following offences—*viz.*, giving or fabricating false evidence, under Sections 193, 194, 195. Falsely charging any person with an unnatural offence, under Sections 211, 377: Assaulting or using criminal force to a woman, under Section 354: Rape, under Section 375: Unnatural offence, under Section 377: Robbery or Dacoity, under Sections 390, 391: Attempt to commit robbery, under Section 393: Voluntarily causing hurt in committing robbery, under Section 394: Habitually receiving, &c., stolen property, under Section 413: Forgery, under Sections 463, 466, 467, 468, 469: Lurking, House Trespass, or House breaking, under Sections 443, 444, 445, 446.

5. Makes Juvenile offenders liable to whipping in lieu of any other punishment, for any offence under the Code not punishable with death.

6. In frontier districts and wild tracts, whipping may be given in lieu of any other punishment, for offences named in Section 4, after Notification in *Gazette*.

7. The following classes not to be liable to whipping—*viz.*, Women, persons sentenced to death, transportation, penal servitude, or to more than five years' imprisonment.

8. Officers inferior to first class subordinate Magistrate not to sentence to whipping unless expressly empowered by Government.

9. Whipping not to be inflicted till fifteen days after sentence, or confirmation of an appeal.

10—11. Whipping to be inflicted with instrument and in mode and on part directed by Government; and on juvenile offender by a light rattan; and not to exceed 150 lashes if by cat of nine tails, or 30 stripes if by rattan; and to be inflicted in presence of Magistrate, &c.; and (11) not to be inflicted if the offender is not in a fit state of health, nor by instalments.

12. Provides for revision of sentence, &c., for case in which sentence of whipping cannot be carried out.

Preamble.

WHEREAS it is expedient that in certain cases offenders should be liable, under the provisions of the Indian Penal Code, to the punishment of whipping; It is enacted as follows:—

Whipping added to the punishments described in Section 53 of the Penal Code.

I. In addition to the punishments described in Section 53 of the Indian Penal Code, offenders are also liable to whipping under the provisions of the said Code.

II. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code, that is to say :—

Offences punishable with whipping in lieu of other punishment prescribed by Penal Code

1. Theft, as defined in Section 378 of the said Code.

2. Theft in a building, tent, or vessel, as defined in Section 380 of the said Code.

3. Theft by a clerk or servant, as defined in Section 381 of the said Code.

4. Theft after preparation for causing death or hurt, as defined in Section 382 of the said Code.

5. Extortion by threat, as defined in Section 388 of the said Code.

6. Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of the said Code.

7. Dishonestly receiving stolen property, as defined in Section 411 of the said Code.

8. Dishonestly receiving property stolen in the commission of a Dacoity, as defined in Section 412 of the said Code.

9. Lurking house-trespass, or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

10. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

III. Whoever, having been previously convicted of any one of the offences specified in the last preceding Section, shall again be convicted of the same offence, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.

On second conviction of any offence mentioned in last Section, whipping may be added to other punishment.

IV. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code, that is to say :—

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

1. Giving or fabricating false evidence in such manner as to be punishable under Section 193 of the Indian Penal Code.

2. Giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in Section 194 of the said Code.

3. Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in Section 195 of the said Code.

4. Falsely charging any person with having committed an unnatural offence, as defined in Sections 211 and 377 of the said Code

5. Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of the said Code.

6 Rape, as defined in Section 375 of the said Code.

7. Unnatural offences, as defined in Section 377 of the said Code

8 Robbery or Dacoity, as defined in Sections 390 and 391 of the said Code.

9 Attempting to commit Robbery, as defined in Section 393 of the said Code

10. Voluntarily causing hurt in committing robbery, as defined in Section 394 of the said Code.

11. Habitually receiving or dealing in stolen property, as defined in Section 413 of the said Code.

12 Forgery, as defined in Section 463 of the said Code.

13. Forgery of a document, as defined in Section 466 of the said Code.

14 Forgery of a document, as defined in Section 467 of the said Code.

15. Forgery for the purpose of cheating, as defined in Section 468 of the said Code.

16. Forgery for the purpose of harming the reputation of any person, as defined in Section 469 of the said Code.

17. Lurking house-trespass or house-breaking, as defined in Sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

18. Lurking house-trespass by night or house-breaking by night, as defined in Sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this Section.

Juvenile offenders punishable with whipping for offences not punishable with death.

V. Any juvenile offender who commits any offence which is not by the Indian Penal Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under the said Code.

When offences specified in Section IV may be punished with whipping in Frontier Districts and wild tracts.

VI. Whenever any local Government shall by Notification in the Official Gazette have declared the provisions of this Section to be in force in any Frontier District or any wild tract of country within the jurisdiction of such local Government, any person who shall in such district or tract of country after such Notification as aforesaid commit any of the offences specified in Section IV of this Act, may be punished with whipping in lieu of any other punishment to which he may be liable under the Indian Penal Code.

Exemption of females.

VII. No female shall be punished with whipping, nor shall any person who may be sentenced to death, or to transportation, or to penal servitude, or to imprisonment for more than five years, be punished with whipping.

Officers inferior to Subordinate Magistrate of the 1st Class not to pass sentence of whipping unless expressly empowered by Government.

VIII. No sentence of whipping shall be passed by any Officer inferior to a Subordinate Magistrate of the first class, unless he shall have been expressly empowered by the local Government to pass sentences of whipping.

IX. When the punishment of whipping is awarded in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or in case of an appeal immediately on the receipt of the order of the Court confirming the sentence if such order shall not be received within the fifteen days.

Whipping if awarded in addition to imprisonment, when to be inflicted.

X. In the case of an adult, the punishment of whipping shall be inflicted with such instrument in such mode and on such part of the person as the local Goverment shall direct, and in the case of a juvenile offender, it shall be inflicted in the way of school discipline with a light rattan. In no case, if the cat of nine tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or if the rattan be employed shall the punishment exceed thirty stripes. The punishment shall be inflicted in the presence of a Justice of the Peace, or of an Officer authorized to exercise any of the powers of a Magistrate, and also, unless the Court which passed the sentence shall otherwise order, in the presence of a Medical Officer.

Mode of inflicting the punishment.

XI. No sentence of whipping shall be carried into execution unless a Medical Officer, if present certifies, or unless it appears to the Justice of the Peace or other Officer present, that the offender is in a fit state of health to undergo the punishment; and if during the execution of a sentence of whipping a Medical Officer certifies, or it appears to the Officer present, that the offender is not in a fit state of health to undergo the remainder of the punishment, execution shall be stayed. No sentence of whipping shall be executed by instalments.

Punishment not to be inflicted if offender not in fit state of health.

Nor by instalments.

XII. In any case in which, under the last preceding Section of this Act, no part of a sentence of whipping is carried into execution, the offender shall be kept in custody till the Court

Procedure if punishment cannot be inflicted under the last Section.

which passed the sentence can revise it, and the said Court may, at its discretion, either order the discharge of the offender, or sentence him in lieu of whipping to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence; provided that the whole period of imprisonment shall not exceed that to which the offender is liable under the provisions of the Indian Penal Code, or that which the said Court is competent to award.

SALT CUSTOMS DUTIES.—CENTRAL PROVINCES.

ACT No. VII. OF 1864.

(*Received the assent of the G. G. on the 25th February* 1864.

Recites expediency of levying duty on Salt in the Central Provinces, and to extend certain specified Acts.

1. Repeals so much of Act XIV., 1843, Section 14, as declares that the Act is not to apply to the Saugor and Nerbudda Territories.

2. Empowers the Governor-General in Council to order levy of Customs duty, not exceeding Rupees 3 per maund, on Salt imported into the Territories administered by the Chief Commissioner of the Central Provinces.

3. Extends to those Provinces specified parts of Act XIV, 1863, Sections 3 to 13, both inclusive; and Act XXXVI., 1855, Sections 1 to 3 and 5 to 9 both inclusive; and Act XIX., 1862, Section 2.

4. Indemnifies Collectors of Customs, &c., for Acts done before this Act passed, which would have been legal if it had passed.

Preamble.

WHEREAS it is expedient to provide for the levy of a Customs duty upon Salt in the Territories administered by the Chief Commissioner of the Central Provinces, and to extend to the said Territories certain provisions of Act XIV of 1843 (*for regulating the levy of Customs duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*), and of Act XXXVI of 1855 *to empower Officers of Customs and land revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces*), and of Act XIX of 1862 *to extend to the Province of Oude certain provisions of Acts XIV of* 1843 *and XXXVI of* 1855 *relating to the ma-*

nufacture of contraband Salt, and to amend the last named Act); It is annexed as follows :—

Section XIV of Act XIV of 1843 partially repealed.

I. So much of Section XIV of Act XIV of 1843 as declares that nothing in the said Act contained shall apply or be deemed to apply to the Saugor and Nerbudda Territories, is hereby repealed.

Customs duty on Salt imported into the Central Provinces.

II. It shall be lawful for the Governor-General in Council to order the levy of a Customs duty not exceeding three Rupees per maund on Salt imported into the Territories administered by the Chief Commissioner of the Central Provinces.

Certain provisions of Act XIV of 1843, of Act XXXVI of 1855, and of Act XIX of 1862, extended to the Central Provinces.

III. So much of Sections III, IV, V, VI, VII, VIII, IX, X, XI, XII and XIII of Act XIV of 1843 as relates to the manufacture and importation of alimentary Salt, and to the prevention and punishment of the illicit manufacture and importation of such Salt, and Sections I, II, III, V, VI, VII, VIII, and IX of Act XXXVI of 1855, and Section II of Act XIX of 1862 are hereby extended to the Territories administered by the Chief Commissioner of the Central Provinces.

Indemnity to Collectors of Customs and others.

IV. Every Collector of Customs and other Officer in the Territories administered by the Chief Commissioner of the Central Provinces, however such Officer is designated, is hereby indemnified for any thing done before the passing of this Act, which might lawfully have been done if this Act had been in force, and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

COMPTOIR D'ESCOMPTE OF PARIS.

ACT No. VIII. OF 1864.

(Received the assent of the G. G. on the 2nd March 1864.)

Recites the establishment of this Bank, for a term of thirty years with limited liability, and with agencies conducted in the same manner as the Bank itself.

Recites also a convention between the Queen and the Emperor for the mutual grant to all Companies of the power to carry on their business, &c, and the expediency of giving effect to the convention so far as the Comptoir D'Escompte and its agencies are concerned.

1. Interprets the word "British India" and "Person," and lays down rule of construction for words of Number and Gender.

2. Suits to be brought by and against the Chief Manager for the time being of the agencies in India, and suits not to abate on his death or removal.

3. In Criminal proceedings, property of the Comptoir may be described as property of the Comptoir, or of the Chief Manager.

4—5. Suits by or against the Comptoir on contract not to be defeated by the plaintiff, or defendant being a partner.

6—8—10—11. Memorial in Form in Schedule A. to be enrolled among the Records of the High Court; (7) authenticated by the French Financial Minister and H. M.'s Consul General in Paris; and (8) on charge of Chief Manager, new memorial thereof to be enrolled; but (10) registered Manager to remain liable, till new one registered; and (11) examined copy of memorial signed by Registrar to be evidence.

9. Section 199 of I. P. C. to apply to false verification of memorial.

10—11. *Supra.*

12. Extends provisions of Civil Code of Procedure as to executions and attachments against property of Comptoir to judgments against the Comptoir.

13. Prohibits multiplicity of suits for same demand.

Schedule A.—The memorial. B. memorial of change of Chief Manager.

Preamble.

WHEREAS certain persons have formed themselves into a Company at Paris for the transaction of Banking business under the name of the "Comptoir D'Escompte of Paris:" and whereas the said Company is constituted and established under and by virtue of various Imperial decrees of the French Government, Notarial Acts, and Articles of Agreement, whereby it is provided (amongst other things) that the said Company may continue to exist and carry on business for a term of thirty years from the eighteenth day of March 1857, that the shareholders of the Company shall be responsible only to the amount of their shares respectively, that the rights and liabilities attached to each share shall follow its transmission into whatever hands it may pass, and that the Company may establish, on its own responsibility, and with the authority of the Minister of Finance, Agencies in France and in French

or Foreign Colonies, such Agencies to be organized and conducted in the same manner as the Comptoir D'Escompte itself: and whereas Agencies of the said Company have been recently established in Calcutta and in Bombay: and whereas on the thirtieth day of April 1862, a Convention was concluded and signed at Paris between Her Majesty the Queen of great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles, that is to say, "First—The High contracting parties declare that they mutually grant to all Companies and other Associations, commerical, industrial, or financial, constituted and authorized in conformity with the laws in force in either of the two countries, the power of exercising all their rights, and of appearing before the Tribunals, whether for the purpose of bringing an action or for defending the same, throughout the dominions and possessions of the other Power, subject to the sole condition of conforming to the laws of such dominions and possessions. Second—It is agreed that the stipulations of the preceding Articles shall apply as well to Companies and Associations constituted and authorized previously to the signature of the present Convention as to those which may subsequently be so constituted and authorized. Third—The present Convention is concluded without limit as to duration Either of the High Powers shall however be at liberty to terminate it by giving to the other a year's previous notice. The two High Powers moreover reserve to themselves the power to introduce into the Convention, by common consent, any modifications which experience may show to be desirable:" and whereas it is desirable that effect should be given to the said Convention so far as the Comptoir D'Escompte and its Agencies now or hereafter established are concerned: It is enacted as follows:—

"British India."

I. Unless the contrary appears from the context, in construing this Act the words "British India" denote the Territories which are or may become vested in Her Majesty the Queen by the Statute 21 and 22 Vic Ch. 106, entitled "an Act for the better Government of India", except the settlement of Prince of Wales' Island, Singapore, and Malacca:

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number :

Gender.

Words importing the masculine gender include females :

"Person."

The word "person" includes any Company or Association or body of persons whether incorporated or not.

All suits and proceedings by, or on behalf of, or against, the Comptoir D'Escompte shall be instituted in the name of, or against, the Chief Manager for the time being of the Agencies in British India, as the nominal plaintiff or defendant, and shall not abate, &c., on death or removal of such Manager.

II. From and after the passing of this Act, all suits and other proceedings whatsoever, for any injury or wrong done to any real or personal property of the said Comptoir D'Escompte, in whomsoever the same may for the time being be vested, whether in the said Company, or in some person or persons in trust for the said Company, or upon or in respect of any present liability to the said Comptoir D'Escompte, or upon any Bonds, Covenants, Contracts, or Agreements which already have been or hereafter shall be given to or entered into with the said Company, or to or with any person whomsoever in trust for the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested, and also all instruments and petitions to found any adjudication of Insolvency in any Court against any person indebted to the said Comptoir D'Escompte, and liable to have been made Insolvent by the laws now or at any time hereafter in force relating to Insolvents in British India, and generally all other proceedings whatsoever to be commenced or carried on, by or on behalf of the said Comptoir D'Escompte, or wherein the said Comptoir D'Escompte is or shall be interested against any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall and lawfully may be commenced and prosecuted in the name of the person who shall be the Chief Manager of the Agencies in British India of the said Comptoir D'Escompte at the time such suit or proceeding shall be commenced, as the nominal plaintiff or petitioner for or on behalf of

the said Comptoir D'Escompte and all suits and proceeding as well for subsisting as future accruing claims, debts or demands to be commenced against the said Comptoir D'Escompte by any person, whether such person is or shall then be a shareholder or partner of or in the said Comptoir D'Escompte or not, shall be commenced and prosecuted against the said Chief Manager for the time being as the nominal defendant or respondent for and on behalf of the said Comptoir D'Escompte, and the death, removal, resignation or any other act of such Chief Manager, or his bankruptcy or insolvency shall not abate or prejudice any suit or other proceeding commenced under this Act, but the same may be continued, prosecuted and carried on or defended in the name of any other the Chief Manager for the time being of the said Agencies.

In criminal proceedings, property whether vested in Comptoir D'Escompte or Trustees, may be described as property of Comptoir or of Chief Manager.

III. From and after the passing of this Act, in all criminal proceedings instituted or carried on by or on behalf of the said Comptoir D'Escompte, for fraud or injury upon or against the said Comptoir D'Escompte, or for any offence whatever relating to any money, notes, bills, effects, securities, or any real or personal property of the said Comptoir D'Escompte, or for any other offence against the said Comptoir D'Escompte, it shall be lawful to state such money, notes, bills, effects and securities, and other real and personal property, in whomsoever the same may be vested, whether in the said Comptoir D'Escompte, or in some person or persons in trust for the said Comptoir D'Escompte, to be the money, notes, bills, effects and securities, or property of the said Comptoir D'Escompte, or of the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte; and any offence committed with intent to injure or defraud the said Comptoir D'Escompte, shall and lawfully may in such proceedings be said to have been committed with intent to injure or defraud the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, and any offender may thereupon be lawfully convicted of any such offence; and in all other proceedings in which, before the passing of this Act, it would have been necessary to state the names of the persons composing the said

Comptoir D'Escompte, it shall be lawful and sufficient to state the name of such Chief Manager; and the death, resignation, or removal of such Chief Manager shall not abate or render defective, or in any wise affect or prejudice such criminal proceedings.

Actions against the Comptoir on contracts with it not to be defeated because plaintiff is a partner.

IV. No suit which may be commenced in any Court in British India against the said Comptoir D'Escompte, or the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte, upon or arising out of any contract entered into by or on behalf of the said Comptoir D'Escompte, shall be in any wise affected or defeated by reason of the plaintiff therein, or of any other person who may be in any wise interested in such action, being a shareholder or partner of or in the said Comptoir D'Escompte; but any shareholder or partner of or in the said Comptoir D'Escompte, shall have the same right of action and remedy to be proceeded in and enforced in the same manner against the said Comptoir D'Escompte, or such Chief Manager for the time being as aforesaid, upon any contract, and for any debt, damage, or demand whatsoever, which he might have had if he had been a stranger, and not a shareholder or partner of or in the said Comptoir D'Escompte.

Suit by Comptoir on contract not to be defeated because defendant is a partner.

V. No suit commenced by or on behalf of the said Comptoir D'Escompte in the name of the Chief Manager for the time being as aforesaid by virtue of this Act, upon or arising out of any contract whatsoever, entered into by or on behalf of the said Comptoir D'Escompte, or for the recovery of any debt, damage, or demand whatsoever due or owing to the said Comptoir D'Escompte, or for any other cause or any other account, shall be in any wise affected or defeated by or by reason of the defendant therein, or any person or persons who may be in any wise interested in such suit, being a shareholder or partner of or in the said Comptoir D'Escompte, but the said Comptoir D'Escompte shall and may have the same right of suit and remedy to be proceeded in and enforced in the same manner against any shareholder or partner of or in the said Comptoir D'Escompte, either alone or jointly with any other person, upon any contract,

and upon and for any debt, damage, or demand whatsoever, which the said Comptoir D'Escompte might have had if such cause of action had arisen with a stranger, and not with a shareholder or partner of or in the said Comptoir D'Escompte.

Chief Manager to cause a memorial to be enrolled containing certain particulars.

VI. The Chief Manager of the Agencies in British India of the said Comptoir D'Escompte shall have an Office for the transaction of the business of the Comptoir D'Escompte. He shall cause a memorial, in the form and to the effect set forth in the Schedule (A) to this Act annexed, or as near thereto as the circumstances of the case will admit of, verified by a declaration in writing made by him before a Judge of the High Court of Judicature, within the Jurisdiction of which his Office is situated, to be enrolled amongst the records of the said High Court, such memorial shall, prior to being enrolled, be signed by the said Chief Manager, and shall be accompanied by or have annexed thereto, or endorsed thereon, copies of the decrees, notarial acts, articles, and other instruments under which the Company is established, and copies of the various rules under which the business of the Company is conducted. The memorial shall set forth the situation of the Office of the Chief Manager and of every other Office and place in British India in or at which the business of the Comptoir D'Escompte is carried on: and it shall contain a statement of the amount both of the nominal and of the paid-up capital, the number of shares into which the capital is divided, the amount of each share, and the amount of capital (if any) which the Comptoir D'Escompte shall have set aside for their working capital in British India, and if the last mentioned capital be other than money, then a statement of how it stands invested, and in whose name.

Authority of Chief Manager to be authenticated.

VII. No memorial shall be enrolled unless the authority of the Chief Manager by whom it is signed, and the copies of the decrees, acts, deeds, and other documents, accompanying the memorial shall be authenticated by the signature and seal of the French Financial Minister, and countersigned by Her Britannic Majesty's Consul General in Paris for the time being.

VIII. Whenever any new Chief Manager of the Agencies in British India of the said Company shall be appointed, or any change in or addition to any of the facts stated in any memorial which may have been enrolled shall take place, a like memorial in the form and to the effect set forth in the Schedule (B) to this Act annexed, verified as aforesaid shall, within twelve calendar months after such appointment, change, or addition shall have been made, be enrolled as aforesaid, specifying the name and description of such new Chief Manager, and containing a statement of the change or addition which may have taken place in the facts aforesaid.

Memorial of change in Chief Manager or in facts set forth in former memorial to be enrolled.

IX. If any declaration made for the purpose of verifying a memorial under this Act shall be false or untrue in any material particular, the person wilfully making such declaration shall be guilty of an offence within the meaning of Section 199 of the Indian Penal Code.

False declaration an offence under the Penal Code.

X. Until such memorial as first hereinbefore mentioned shall have been duly verified and enrolled, no action or suit shall be brought by the said Comptoir D'Escompte under the authority of this Act: and until the memorial by this Act required to be verified and enrolled in the event of the appointment of a new Chief Manager of the Agencies in British India of the said Comptoir D'Escompte, shall have been duly verified and enrolled, the person whose name shall appear in the last memorial which shall have been duly verified and enrolled, shall be liable to all such suits and executions upon judgment or decree and other proceedings under this Act, and in the same manner, as if he had not ceased to be such Chief Manager, and as if no new Chief Manager had been appointed.

Comptoir not to sue under this Act till after enrollment of memorial, and person named in last memorial to remain liable till fresh memorial is enrolled.

XI. An examined copy of every memorial enrolled pursuant to this Act, certified to be a true copy by and under the hand and signature of a Registrar for the time being of the High

Examined copy to be a proof of contents of memorial.

Court of Judicature in which the same shall have been enrolled, shall be received in evidence as proof of the contents of such memorial, and proof shall not be required that the person by whom the memorial purports to be verified was, at the time of such verification, Chief Manager as aforesaid of the said Agencies.

Judgment or order against Chief Manager how to be executed.

XII. Execution on every judgment, decree, and order made or pronounced in any suit or proceeding in any Court in British India against the Chief Manager for the time being as aforesaid, shall and may be issued and enforced against any property in British India belonging to the Comptoir D'Escompte. All the provisions of the Code of Civil Procedure as to the attachment of property before judgment and after judgment, shall in all suits against the Chief Manager have full force and effect as regards property in British India belonging to the Comptoir D'Escompte. So long as the full amount recoverable by any person under any judgment, decree, or order shall not have been recovered, no execution issued from any Court in British India, nor any thing in this Act, shall in any way prejudice or injure the right of such person to proceed in France, under the privileges and powers reserved to British subjects by and under the said Convention of the thirtieth of April 1862, for the recovery of the amount unrecovered.

No person to bring more than one suit for the same demand against any Chief Manager, nor the Comptoir against any other person.

XIII. No person having or claiming to have any demand upon or against the said Comptoir D'Escompte shall, when the same has been so determined as to have been pleadable in bar against such person, bring more than one suit in respect of such demand; and the proceedings in any suit which may have been brought against the Chief Manager for the time being of the Agencies in British India of the said Comptoir D'Escompte under the authority of this Act, if so determined, may be pleaded in bar of any suit in any Court in British India, for the same cause against any other such Chief Manager; and in case of any demand which the said Comptoir D'Escompte now has or hereafter may have upon or against any person, whether a shareholder of the said Comptoir

D'Escompte or not, and which shall have been determined in any action or suit commenced or prosecuted by the Chief Manager for the time being, the proceedings in such suit may be pleaded in bar of any other suit, in any such Court as aforesaid, for the same demand, which may be commenced or prosecuted by the same or any other such Chief Manager as aforesaid.

SCHEDULE (A).

Referred to in Section VI of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An Act to enable the "Comptoir D'Escompte of Paris to sue and be sued in the name "of the Chief Manager of the Indian Agencies of the said Company," setting forth the particulars prescribed by Section VI of the said Act.

Situation of Office of Chief Manager ... ...
Situation of other Offices and places in British India ...
Entire Nominal Capital of the Company... ... ...
Paid-up Capital .. ..
Number of Shares ... ...
Amount of each Share ... ...
Amount of Capital set aside for operations in British India.
Mode in which the same is invested ... .
Name in which the same is invested ... ...

I, *A. B*, Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) A. B.

Declared &c., before me, a Judge of the High Court of Judicature at

SCHEDULE (B).

Referred to in Section VIII of this Act.

Memorial made the day of by the Chief Manager of the Agencies in British India of the Comptoir D'Escompte of Paris, pursuant to Act VIII of 1864 of the Governor-General of India in Council, intituled "An Act to enable the Comptoir D'Escompte, &c.," (*as in foregoing*), setting forth particulars of change or changes as prescribed by Section VIII of the said Act.

Name and description of new Chief Manager ... ...

or

New situation of Office of Chief Manager ... ...

or

Other change ... ...

I, *C. D.*, Chief Manager of the Agencies in British India of the Comptoir D Escompte of Paris, do solemnly and sincerely declare, to the best of my knowledge and belief, that the above written memorial is true in all respects.

(Signed) C. D.

Declared before me, &c., &c, (*as before*).

PORT DUES—AMHERST.

ACT No. IX OF 1864.

(Received the assent of the G G. on the 9th March 1864)

1—2 Repeals Act VIII, 1861, (2) from the 1st May 1864

Preamble

WHEREAS it is expedient that Act VIII of 1861 (*for the levy of Port-dues in the Port of Amherst*) be repealed · It is enacted as follows :—

Act VIII of 1861 repealed.

I. Act VIII of 1861 is hereby repealed.

Date on which Act comes into operation

II This Act shall come into operation on the first day of May 1864.

ABKAREE REVENUE—BENGAL.

ACT No. X. OF 1864.

(Received the assent of the G. G on the 9th March 1864)

Recites the expediency of extending Act XXI, 1856, to any province or place under the immediate administration of the Governor General of India in Council.

1—2. Empowers the Governor General in Council so to extend the Act by order in the *Gazette of India*; and (2) declares the Act to be in force whenever so extended.

Preamble.

WHEREAS it is expedient to give the Governor-General of India in Council power to extend the provisions of Act XXI of 1856 (*to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal*) to any of the Provinces under the immediate administration of the Governor-General of India in Council in which the said Act is not now in force. It is enacted as follows:—

Governor-General of India in Council may extend Act XXI of 1856 to certain Non-Regulation Provinces.

I. It shall be lawful for the Governor-General of India in Council, by order published in the Gazette of India, to extend the provisions of the said Act XXI of 1856 to any province or place under the immediate administration of the Governor-General of India in Council.

Governor-General in Council to declare the authorities by whom Act XXI of 1856 is to be administered.

II. Whenever the Governor-General of India in Council shall extend the said Act XXI of 1856 to any province or place under the powers hereinbefore in that behalf contained, the Governor-General in Council shall by notification in the Gazette of India declare the authorities by whom the said Act XXI of 1856 shall be administered in such province or place.

HINDOO AND MAHOMEDAN LAW OFFICERS AND CAZEE.

ACT No. XI. OF 1864.

(Received the assent of the G. G. on the 18th March 1864.)

Recites that it is unnecessary to continue the Hindoo and Mahomedan Law Officers, and that it is inexpedient that the appointment of Cazee-ool-Cozaat or Cazee should be made by Government.

1. Repeals the following Regulations and Acts :—*Bengal* Regs. 4, 1793, Section 15 partially; 12, 1793; 39, 1793, 8, 1795, Section 3 partially; 11, 1795; 49, 1795; 2, 1798, Section 4; 3, 1803, Section 16, Clause 1 partially; 9, 1803; 46, 1803; 10, 1806, Section 10 partially; 8, 1809, Sections 3, 4; 18, 1817, Sections 1, 2, 4, 6, partially, 11, 1826, Sections 1, 2, 3, 4; 3, 1827, Sections 1, 2, 3, 4, partially; 3, 1829, Section 7. *Madras* Regs. 11, 1802; 3, 1808, 7, 1822, Section 3, Clause 2; 3, 1828. *Bombay* Regs. 2, 1827, Section 34, Clauses 2, 3, and Section 35; 26, 1827. Act XXVII, 1836; VII, 1843, Section 51, V, 1845.

Preamble.

WHEREAS it is unnecessary to continue the offices of Hindoo and Mahomedan Law Officers, and is inexpedient that the appointment of Cazee-ool-Cozaat, or of City, Town or Pergunnah Cazees should be made by Government; It is enacted as follows :—

Regulations and Acts repealed.

I. The Regulations and Acts and parts of Regulations and Acts set forth in the Schedule annexed to this Act are hereby repealed, except so far as they repeal any other Regulation or Act or part of any other Regulation or Act.

This Act not to affect the performance of ceremonies, &c., by Cazees.

II. Nothing contained in this Act shall be construed so as to prevent a Cazee-ool-Cozaat or other Cazee from performing, when required to do so, any duties or ceremonies prescribed by the Mahomedan Law.

SCHEDULE.

Regulations and Acts and parts of Regulations and Acts Repealed

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation IV. 1793 ...	Bengal Code	For receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad ...	So much of Section XV as declares that, in the respective cases mentioned in the said Section, the Mahomedan and Hindoo Law Officers of the Court are to attend to expound the law.
Regulation XII. 1793...	Bengal Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature ...	The whole.
Regulation XXXIX. 1793 ...	Bengal Code	For the appointment of the Cazee-ool-Cozaat or Head Cazee of Bengal, Behar, and Orissa, and the Cazees stationed in the several districts, and prescribing their respective duties...	The whole.

Number and date of Regulations.	What Code.	Title	Extent of Repeal
Regulation VIII 1795	Bengal Code	For extending to the Province of Benares, with alterations and modifications, Regulation IV 1793, entitled "A Regulation for receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs and in the Cities of Patna, Dacca, and Moorshedabad," and for exempting the Rajah of Benares and the Baboos of his family, and certain Bankers, when defendants, from giving the security required from other defendants ...	So much of Section III as declares that, in the respective cases mentioned in the said Section, the Mahomedan and Hindoo Law Officers of the Courts are to attend and expound the law
Regulation XI 1795...	Bengal Code	For extending, with modifications, to the Province of Benares, Regulation XII 1793, entitled "a Regulation for the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature" and for appointing a Pundit or Pundits to the Provincial Court of Circuit for the Division of Benares, to expound the Hindoo Law in certain cases cognizable by that Court ...	The whole

Regulation XLIX. 1795	Bengal Code	For appointing the Head Cazee of the Provinces of Bengal, Behar, and Orissa, Head Cazee of the Province of Benares, and for extending to that Province the Rules contained in Regulation XXXIX. 1793, regarding the Cazees stationed in the Cities, Towns, and other places in the three first mentioned Provinces ...	The whole
Regulation II. 1798 ..	Bengal Code	For authorising a Review of Causes decided by the Civil Courts in certain cases; and for explaining parts of Regulations IV, V and VI. 1793 ...	Section IV.
Regulation III. 1803 ...	Bengal Code	For receiving, trying and deciding suits or complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	So much of Clause First, Section XVI, as declares that the Mahomedan and Hindoo Law Officers of the Courts shall attend to expound the law of their respective persuations in cases in which recourse may be required to be had to it; and that the Judge of the Zillah Court may further refer cases for the opi-

Number and date of Regulation.	What Code.	Title.	Extent of Repeal.
			nion of the Law Officers of the Superior Courts.
Regulation XI. 1803...	Bengal Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature, in the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	The whole.
Regulation XLVI. 1803	Bengal Code	For the appointment of the Cazee-ool-Cozaat, or Head Cazee of the Provinces of Bengal, Behar, Orissa, and Benares, to be the Head Cazee of the Provinces ceded by the Nawab Vizier to the Honorable the English East India Company ...	The whole.
Regulation X. 1806 ...	Bengal Code	For extending to the Judicial Department such parts of Regulation VIII. 1806, as are applicable to charges or information against the European public officers employed in that Department, and for making further provision in such cases ...	So much of Section X as relates to charges of corruption and extortion against the Hindoo and Mahomedan Law Officers.
Regulation VIII. 1809	Bengal Code	For modifying parts of the Rules in force respecting the appointment and removal of the Native Officers of Government in the Judicial, Revenue, and Commercial Departments...	Sections III and IV.

Regulation XVIII. 1817	Bengal Code	To modify the Rules in force which prescribe an oath of office to be taken by certain Native Officers; and to explain and amend other provisions relative to the Native Ministerial Officers and Law Officers of the Civil and Criminal Courts ..	So much of Sections I, II, IV and VI as relates to Law Officers.
Regulation XI. 1826 ...	Bengal Code	For providing a succession of duly qualified Hindoo and Mahomedan Law Officers in the several Courts of Justice; and for enacting an additional Rule for the appointment of Vakeels in the Zillah and City Courts ...	Sections I, II, III and IV.
Regulation III. 1827...	Bengal Code	For modifying and amending the Rules in force relative to the Law Officers and Ministerial Native Officers of the Courts of Judicature, who may be guilty of corruption or extortion.	So much of Sections I, II, III and IV as relates to Law Officers.
Regulation III. 1829...	Bengal Code	For abolishing certain official designations amongst the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, and of the Provincial Courts; for amending the Rules at present in force, which require the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, or other public Officers, to take the prescribed oaths of office before the Governor-General in Council; for providing for the decision of Civil suits and appeals in the Provincial Courts, in certain cases; for amending Regulation VIII. 1825,	Section VII.

Number and date of Regulations.	What Code	Title.	Extent of Repeal.
		and for discontinuing the offices of Hindoo and Mahomedan Law Officer in the Provincial Courts ...	
Regulation XI. 1802...	Madras Code	For the appointment of the Hindoo and Mahomedan Law Officers of the Civil and Criminal Courts of Judicature ...	The whole.
Regulation III 1808...	Madras Code	For the appointment of the Cazee-ool Cozaat of the Provinces subject to the Presidency of Fort Saint George ...	The whole.
Regulation VII 1822...	Madras Code	For rescinding Regulation I of 1809, and Regulation V of 1811, and for declaring that the appointment and removal of the Native public servants of Government shall be regulated by such orders as the Governor in Council may from time to time see fit to issue ...	Section III Clause 2.
Regulation III 1828...	Madras Code	For improving the means of procuring for the Courts of Judicature correct expositions of the Hindoo and Mahomedan Law ...	The whole.
Regulation II. 1827 ...	Bombay Code	For defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and Officers thereof ...	Clauses 2 and 3, Section XXXIV, and Section XXXV.
Regulation XXVI. 1827	Bombay Code	For the appointment and removal of Cazees, and for ensuring an efficient and regular discharge of their duties ...	The whole.

Number and date of Acts.	Title.	Extent of Repeal.
Act XXVII. 1836 ...	For the repeal of Regulation V. 1817 of the Madras Code ...	The whole.
Act VII. 1843. ...	For abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I and II, and Regulations VII and VIII of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil Jurisdiction of such Courts ...	Section LI.
Act V. 1845. ...	Concerning the examination and appointment of Hindoo and Mahomedan Law Officers ...	The whole.

TREATY WITH BURMAH.

ACT No. XII. OF 1864.

(Received the assent of the G. G. on the 18th March 1864).

1. Authorizes the Governor-General in Council to give effect to Act IV, 1863, by general Rules and Orders.

2. Indemnifies Collectors of Customs, &c., for acts done in carrying Act IV, 1863, into operation.

Preamble.

WHEREAS it is necessary to provide for the more effectual carrying out of the provisions of Act IV of 1863 *(to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah)*; It is enacted as follows:—

Governor-General in Council may pass rules to give effect to Act IV of 1863.

I. It shall be lawful for the Governor-General of India in Council to make and issue rules to give effect to the said Act IV of 1863, and regulate all matters relating to the import and export of goods or otherwise arising under that Act: and from time to time to add to, alter or revoke such rules or any of them. Provided that no rule so made shall be inconsistent with any provision of the said Act IV of 1863, and that the penalties prescribed in such rules for their infringement shall not exceed, and shall so far as circumstances will admit be the same as, or similar to, the penalties prescribed in the like cases by Act VI of 1863 *(to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India)*. All rules made under this Section shall be published in the Gazette of India.

Proviso.

Indemnity.

II. Every Collector of Customs, or other Officer, is hereby indemnified for every thing done on or after the date on which the said Act IV of 1863 came into operation, in collecting or enforcing the Duty imposed under the provisions of that Act, or by virtue of any order of Government or otherwise in carrying the said Act IV of 1863 into effect: and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

EMIGRATION.

ACT No. XIII. OF 1864.

(Received the assent of the G. G. on the 18th March 1864).

Recites expediency of consolidating and amending the Emigration Laws.

1. Repeals from 1st July 1864, Acts XIV, 1839; 15, 1842; 21, 1843; 21, 1844; 25, 1845; 8 and 13, 1847; 4 and 24, 1852; 31, 1855; 19, 1856; so much of it as is not included in 40, 1860; and 7, 1862; Acts 12, 32, 41 and 49, 1860; 22, 1862; 7, 1863.

2. Interpretation of words "Emigrate," "Emigrant," "Magistrate of the District," "British India," "Local Government," "Section," and words of Number and Gender.

3. Makes illegal specified contracts except in conformity with this Act; (3) contracts with native laborers for service beyond British India, or to enable or assist any native to emigrate; but this provision not to apply to Emigration to any part of the continent of India, whether British or Foreign, or to Emigration to Ceylon, or to contracts with native seamen.

4—6. Authorizes contracts for Emigration to Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and St. Croix; and (5) to any other places notified in the *Gazette*; from (6) the date of such notification.

7—8. Emigration not to be lawful, except from Calcutta, Madras, and Bombay; (8) at respective periods specified from and for specified places.

9. Regulates the Government Notification under Section 5.

10. Authorizes the appointment of Emigration Agent, subject to approval and removal by Local Government.

11—12. Continues under this Act Emigration Agents under former Acts; who (12) are in future to be paid fixed salaries.

13—15. Authorizes Governments to nominate Protector of Emigrants; who, (14) except by permission, are not to hold any other office; and (15) Protectors under former Act to continue under this Act.

16. Defines the duties of Protectors of Emigrants.

17. Authorizes Local Governments to nominate Medical Inspector of Emigrants.

18—19. Emigrant depôt to be established in Calcutta, Madras and Bombay which (19) is to be licensed by Protector of Emigrants after being approved by Medical Inspector of Emigrants.

20. Inspection of Emigrants by Protector and Medical Inspector to be once a week.

21. Makes it the duty of the Medical Inspector to report if depôt be unsuitable or Emigrants neglected.

22. Medical Inspector a Public Servant.

23. Duty of all persons in the Emigration Service to aid Medical Inspector and Protector of Emigrants.

24—29.—Protector of Emigrant to license Recruiters of Emigrants; (25) to recruit for specified places on application of Emigration Agent; and (26) license to be for one year; (27) in Form in Schedule B.; and (28) Recruiter to wear a Badge; (29) and get countersignature of Local Magistrate before he recruits in any place.

30—35. Persons recruited to be taken before the Magistrate and examined, &c., and registered; and (31) fee to be paid for registration; (32) and copy of register to be sent to Protector and Emigration Agent; and (33) provides for registration in the Presidency Towns; and (34) for payment of fee for registration; and (35) for transmission of copy to place of destination.

36—40. Provides for and regulates the conveyance of Emigrant to the Depôt, where (37) on arrival he is to be reported; and (38) examined by Medical Inspector; and (39) sent back if found unfit, &c., at expense of Emigration Agent, who shall advance same; or (40) on default be liable to defray it.

41. Defines the duties of the Emigration Agent, and provides for case of his refusal to be bound without consent of Protector of Emigrants.

42. Emigration Agent to give Emigrant a Pass countersigned by Protector of Emigrants; who (43) is personally to attend on examination.

44. Emigrant refusing to go, not to be compelled, but prosecuted under Section 492, Indian Penal Code.

45. For places east of Cape of Good Hope, Emigrants may leave at any time of the year, but west of it only between 31st July and 16th March, except in steam ships.

46. Only licensed vessels to carry Emigrants, and regulates the issue of license.

47—49. Directs what accommodation there shall be for Emigrants, and (48) what ship's stores; and (49) what extra clothing for west of the Cape of Good Hope.

50. Master of Emigrant ship to obtain certificate from Protector of Emigrant and Emigration Agent, of compliance with Act.

51. Emigrant not to depart if unfit for voyage.

52. Emigrant to be informed of the provisions of law in his favor.

53. Things to be done on the Emigrant's embarking.

54—58. Emigration Agent to deliver a signed list to Master, for delivery at Port of destination; and (55) Custom House Officer on leaving ship to make muster roll of Emigrants; and (56) make declaration; and (57) deliver same to Protector of Emigrants who (58) shall compare same with list in his Office.

59—60. Emigration vessel to depart within twenty-four hours after embarkation of Emigrants, and (60) under tow of steamer.

61. Copy of Act and Rules to be on board Emigrant ship.

62. Emigrants for Seychelles, if sick, may be taken to Quarantine Station of Mauritius.

63—66. Empowers Governor-General in Council to make, &c., Rules on specified matters; and (64) to prohibit Emigration to places, under specified circumstances; (65) prohibition to take effect from date, &c.; and (66) Penal laws against Emigration from same date.

67. Empowers Governor-General in Council to revoke suspension.

68. Fees received by Magistrate, &c., to be accounted for.

69—71. Establishes penalties for unlawful contract; and (70) for recruiting without license; and (70) for specified defaults of recruiter; and (71) for not taking Emigrant before Magistrate.

72—78. *Penalty Sections.* (72) For forwarding coolies without prior registration; (73) for false representation as to authority to engage coolies; (74) for receiving Emigrant in unlicensed vessel; (75) for clearing ship without complying with Rules; (76) for taking Emigrant on board after clearance; (77) for fraudulent certificates, &c.; (78) for proceeding to sea without steam.

79—80. Extends the powers of Customs Officers to prevention of illegal emigration; and (80) imposes penalty on Customs Officer.

81. Directs how prosecutions under this Act shall be instituted, &c., and how fines shall be applied.

82. Authorizes Government to give Magistrates the powers of this Act.

83. Partially repeals Act XLVI, 1860, Section 8, and saves it in all other respects, and declares the application of Sections 19 to 41 of same Act.

84. Act to come into operation on 1st July 1864.

85. Saves from operation of Act Her Majesty's ships.

Schedules A. of Acts repealed, B. of License to Recruiter.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the Emigration of Native Laborers; It is enacted as follows:—

Acts repealed.

I. From the date on which this Act shall come into operation, the Acts or parts of Acts set forth in the Schedule (A) annexed to this Act shall be held to be and are hereby repealed to the extent mentioned in the said Schedule, except so far as they repeal any other Act or Regulation, or part of any other Act or Regulation.

Interpretation.

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

The word "Emigrate" shall denote the departure of any Native of India out of British India for the purpose of laboring for hire in some other place; and the word "Emigrant" shall denote any Native of India under engagement to emigrate:

"Emigrant".

"Emigrate."

The words "the Magistrate of the District" shall denote the Chief Officer charged with the Executive Administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such Executive Administration is styled, or in the absence of such Officer from the Station at which his Court is ordinarily held, the Senior Officer at the Station exercising the powers of a Magistrate as defined in the Code of Criminal Procedure:

"The Magistrate of the District."

The words "British India" shall denote the Territories vested in Her Majesty by the Statute 21 and 22 Vic. cap. 106, entitled "An Act for the better government of India," except the settlement of Prince of Wales' Island, Singapore, and Malacca:

"British India."

The words "local Government" shall denote the person authorized by law to administer Executive Government in any part of British India:

"Local Government".

The word "Section" shall denote a section of this Act:

"Section."

The word "vessel" shall include any thing made for the conveyance by water of human beings or property:

"Vessel".

Words importing the singular number shall include the plural number and words importing the plural number shall include the singular:

Number.

Words importing the masculine gender shall include females.

Gender.

III. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labor to be performed in any place beyond British

Contracts for labor out of India unlawful, except under this Act.

India, or to enable any Native of India to emigrate, or to assist any Native of India in emigrating: provided that nothing in this Act shall apply to any contract with any Native of India for labor to be performed in any Foreign Settlement on the main land of India or in any Native State in India, or to emigration to any such Settlement or State; or shall apply to any contract for labor to be performed in or to emigration to the Island of Ceylon; or shall apply to any contract with or the emigration of any Native Seaman or other person who of his own free will shall contract to navigate or serve on board of any vessel or who shall embark on board such vessel in pursuance of such contract, or any person who shall contract to serve as a menial servant only, and who shall embark as such menial servant

Places for emigration to which contracts may be made with Natives.

IV. Contracts may be made with Natives of India to emigrate to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles, and to the Danish Colony of St. Croix; and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

Governor-General may declare emigration lawful to places other than those mentioned in the last Section.

V. The Governor-General of India in Council may from time to time by Notification published in the Gazette of India, declare that the emigration of Natives of India shall be lawful to any place other than the places mentioned in the last preceding Section: provided that every such notification shall contain also a declaration, that the Governor-General of India in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor General of India in Council thinks sufficient for the protection of Natives of India emigrating to such place.

Proviso.

Contracts may be made for emigration to places to which emigration is authorized by Governor-General.

VI. From the date of any such notification by the Governor-General of India in Council, contracts may be made with any Native of India for labor to be performed in any place to which emigration is authorized in the notification, and

it shall be lawful to enable or assist any Native of India to emigrate to such place; but all contracts and emigration under any such notification shall be made and conducted subject to the provisions of this Act.

From what ports emigration lawful.

VII. Emigration shall not be lawful except from the port of Calcutta, the port of Madras, or the port of Bombay.

Probable length of voyages.

VIII. The probable length of the voyages to the places enumerated in Section IV, from Calcutta, Madras, or Bombay respectively, shall for the purposes of this Act be deemed to be as follows:—

From Calcutta..	To Mauritius and Seychelles ..	Between the months of April and October inclusive, 10 weeks; and between the months of November and March inclusive, 8 weeks.
	To Jamaica, British Guiana Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix.	20 weeks.
	To Natal	12 weeks.
From Madras ..	To Mauritius and Seychelles ..	Between the months of April and October inclusive, 7 weeks; and between the months of November and March inclusive, 5 weeks.
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix.	19 weeks.
	To Natal	10 weeks.
From Bombay ..	To Mauritius and Seychelles ..	Between the months of April and September inclusive, 5 weeks; and between the months of October and March inclusive, 6 weeks.
	To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts and St. Croix.	19 weeks.
	To Natal	10 weeks.

Notification legalizing emigration to any new place shall give the probable length of the voyage.

IX. In every notification issued under Section V, there shall be stated the probable length of the voyages from Calcutta, Madras, and Bombay respectively, to every place to which emigration is by such notification authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Appointment of Emigration Agent.

X. The Government of every place to which emigration shall be lawful under this Act may, from time to time, nominate a person to act as Emigration Agent in Calcutta, Madras, and Bombay respectively, but such nomination shall be subject to the approval of the local Government. Every Emigration Agent shall be liable to removal by the Government which nominated him.

The present Emigration Agents to be recognized as Emigration Agents under this Act.

XI. Every Emigration Agent who at the time when this Act shall come into operation shall have been nominated by the Government of any of the Colonies enumerated in Section IV, shall be deemed to have been nominated under this Act.

Remuneration of Agents.

XII. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

Appointment of Protector of Emigrants.

XIII. It shall be lawful for the local Government to nominate a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and with the sanction of the Governor-General of India in Council to assign to such person such salary and establishment as shall be deemed proper. Every Protector of Emigrants shall be subject to removal by the local Government to which he is subordinate.

No Protector to hold other office without permission.

XIV. No Protector of Emigrants nominated under this Act shall except with the permission of the local Government, hold any other office under Government, or follow any other profession or occupation.

Existing Protectors to be deemed Protectors under this Act.

XV. Every Protector of Emigrants who at the time when this Act shall come into operation shall have been nominated by the local Government, shall be deemed to have been nominated under this Act.

General duties of the Protector of Emigrants.

XVI. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall so far as is in his power generally protect and aid with his advice or otherwise all Emigrants, and shall cause all the provisions of this Act to be duly complied with: he shall also inspect on arrival all vessels bringing return Emigrants to the port at which he is Protector, and enquire into the treatment received by such Emigrants both during the period of their

As to inspecting vessels with return Emigrants.

service in the place to which they emigrated, and also during the voyage, and shall make a report thereon to the local Government, and he shall aid and advise such return Emigrants so far as he reasonably can when called upon by them to do so.

Appointment of Medical Officer.

XVII. At each of the three ports aforesaid, it shall be lawful for the local Government to nominate a competent person to be Medical Inspector of Emigrants; and with the sanction of the Governor-General of India in Council to assign to the Medical Inspector so nominated such salary as shall be deemed proper.

Depôts to be established in Calcutta, Madras, and Bombay, for each Emigration Agency.

XVIII. In each of the Towns of Calcutta, Madras, and Bombay, or in the Suburbs of those Towns, a suitable depôt shall be established by the Emigration Agent of every place to which emigration shall be lawful under this Act, for the persons who shall be engaged as laborers for such place; and by the Emigration Agent nominated by the French Government under Act XLVI of 1860 (*to authorize and regulate the Emigration of Native Laborers to the French Colonies*), and Act VII of 1862 (*to amend Act XLVI of* 1860), for the persons who shall be engaged as laborers for the French Colonies

Licensing of depôts.

XIX. Every depôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants. No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he shall consider that the depôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the depôt was established. For every license granted under this Section, there shall be paid to the Protector a fee of ten Rupees.

Inspection by Protector and Medical Inspector.

XX. Every Protector of Emigrants and every Medical Inspector of Emigrants shall, from time to time, and at least once in every week, inspect the Emigrants in the various depôts for the reception of Emigrants about to embark from the port at which they are Protector

and Medical Inspector respectively, and examine into the state of the depôts, and the manner in which the Emigrants are therein lodged, fed, clothed, and otherwise provided for and attended to.

Report to be made by Medical Inspector.

XXI. It shall be the duty of the Medical Inspector to report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the Emigrants are treated with any neglect or oppression.

Protectors and Medical Inspectors to be deemed Public Servants.

XXII. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be held to be a Public Servant within the meaning of the Indian Penal Code.

And to have every facility for inspections, &c.

XXIII. It shall be the duty of every Emigration Agent, and of all persons in charge of or employed in any depôt, or in any vessel licensed to carry Emigrants as hereinafter provided, to give the Protector and the Medical Inspector every facility for making such inspections, examinations, and surveys as may be necessary or proper under this Act, and to afford them all such information as may be reasonably required by them.

Protector of Emigrants to license Recruiters.

XXIV. The Protector of Emigrants at each of the three ports aforesaid, shall license so many fit persons as shall to him seem necessary, to be Recruiters of laborers, and no person shall act or be employed as a Recruiter of laborers except under a license from a Protector of Emigrants.

Recruiter's License.

XXV. Every Recruiter shall be licensed to obtain laborers for some particular place to which emigration shall be lawful under this Act, and no license to obtain laborers for any place shall be granted except on the application of the Emigration Agent of such place.

Duration of license, and cancelment in case of misconduct.

XXVI. No license shall be in force for a longer period than one year, and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Form of license, and fee to be paid.

XXVII. Every license shall be in the form set forth in the Schedule (B) to this Act annexed. For every license there shall be paid to the Protector a fee of ten Rupees.

Recruiter to wear badge.

XXVIII. Every person holding a license as a Recruiter of laborers shall wear a badge bearing the following inscription in English, and in the vernacular language of the Town, District or Districts in which he is licensed to engage laborers—[*Recruiter of Emigrants for the Mauritius (or other place as the case may be)*].

Recruiter to have his license countersigned by a Magistrate where he is recruiting.

XXIX. No Recruiter shall engage or attempt to engage laborers in any District or in the Towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon. Such countersignature shall be given, provided that the license is in force at the time.

Natives engaging to emigrate not to leave their district without appearing before Magistrate.

XXX. Every Native of India, who shall in any place other than the Towns of Calcutta, Madras or Bombay enter into any engagement with a Recruiter to emigrate, shall prior to leaving the District within which the engagement was entered into appear with the Recruiter before the Magistrate of such District, and no Recruiter shall remove such Emigrant from the said District until he shall have so appeared. Upon so appearing, the Magistrate shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and

Examination and registration.

the Recruiter. If the Magistrate shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the Emigrant registered.

Fee for registration.

XXXI. For the registration of every Emigrant, the Recruiter shall pay to the Magistrate a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Magistrate to the Recruiter by whom it was paid, under such Rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

Copy of registration to be sent to Emigration Agent and Protector.

XXXII. Authentic copies of every registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein shall have been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Registration of Emigrants recruited in Presidency Towns.

XXXIII. Every Native of India, who shall in the Towns of Calcutta, Madras or Bombay enter into any engagement with a Recruiter to emigrate, shall within forty-eight hours of making such engagement appear with the Recruiter before the Protector of Emigrants in such Town, and no Recruiter shall remove such Emigrant from the said Town, or to any emigration depôt, until he shall have so appeared. Upon his so appearing, the Protector of Emigrants shall examine the intending Emigrant with reference to his engagement; and if it appears that he comprehends the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the local Government shall prescribe, the name, the name of the father, and the age of such Emigrant, and the name of the village or place of which such Emigrant is a resident, the

Emigration depôt to which it is intended he shall proceed, and the rate of wages and period of service, if any, agreed upon between the Emigrant and the Recruiter. If the Protector of Emigrants shall be of opinion that the intending Emigrant does not comprehend the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name. A copy of every registration under this Section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the Emigrant registered.

Fee for registration by Protector.

XXXIV. For the registration of every Emigrant under the last preceding Section, the Recruiter shall pay to the Protector of Emigrants a fee of one Rupee. On proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Protector to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

Copy of registration by Protector, to be forwarded to Agent

XXXV. An authentic copy of every registration by a Protector of Emigrants shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein shall have been engaged.

Conveyance of Emigrant to depôt.

XXXVI. 1. Every Emigrant recruited under the provisions of this Act, shall be conveyed by land or river with all convenient despatch to the depôt at the port of embarkation, established by the Emigration Agent of the place to which such Emigrant has contracted to emigrate.

Emigrants shall be accompanied to depôt by Recruiter, or person approved by Magistrate.

2. The registered Emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the Emigrants may have been registered. The Magistrate shall give to the person so appointed a certificate

under his signature, stating that he has been appointed for the journey to the depôt.

Recruiter to provide suitable food and lodging.

3. Every Recruiter by or through whom Emigrants may be forwarded to a depôt, shall throughout their journey provide them with suitable lodging and food.

Arrival at depôt to be reported to Emigration Agent, and to Protector.

XXXVII. The arrival of each Emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Copy of registration to be exhibited to Medical Inspector.

And Emigrants to be inspected by him.

XXXVIII. The copy of the registration of every Emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall as soon as conveniently may be after the arrival of the Emigrant be exhibited to the Medical Inspector of Emigrants; and the Emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed. The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

If unable to proceed from bad health, or if irregularly recruited, Emigrant to be sent back to place where he was registered.

XXXIX. If the Medical Inspector shall certify that any Emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity shall have occurred in the recruitment of any Emigrant, it shall be lawful for the Protector of Emigrants to order the Emigration Agent in whose depôt such Emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable snm as shall be necessary to enable the laborer to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the laborer to such place.

Provision for case of Emigration Agent failing to pay sum required to enable Emigrant to return.

XL. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum of money as in the last preceding Section mentioned, it shall be lawful for the Protector to pay the same to or on behalf of the Emigrant, and every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it may be paid, as money paid to the use of such Emigration Agent. No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the same, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith. Provided that any Emigrant who from his state of health is in the opinion of the Medical Inspector unfit to undertake the journey back to the place where he was registered, shall in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector shall otherwise order.

Duty of Emigration Agent.

XLI. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each Emigrant at the depôt, shall ascertain by personal communication with such Emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt. The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the Emigrant under Section XXX or Section XXXIII. If for any reason further enquiry be necessary, such enquiry shall be made forthwith. Unless the Emigration Agent shall with the consent of the Protector refuse to recognize or to be bound by the contract entered into by the Recruiter with the Emigrant, as shown by the copy of the registration produced by the Emigrant, such copy if it be a copy furnished under Section XXX shall be

countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under Section XXXIII shall be countersigned by the Emigration Agent alone; and the copy so countersigned, under whichever Section it may have been furnished, shall be delivered back to the Emigrant.

Provision for case of Agent refusing without consent of Protector to be bound by contract made by Recruiter.

If the Emigration Agent shall, without the consent of the Protector, refuse to be bound by the contract entered into by the Recruiter with the Emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as shall be necessary to enable the Emigrant to return to the place where he was registered, and on failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the Emigrant, and all the provisions of the last preceding Section as to sums paid by the Protector shall be applicable, so far as the circumstances of the case will permit, to sums paid by him under this Section. The Protector shall also, in every case in which it shall seem to him proper to do so, institute a suit on behalf of the Emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent. In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

After examination and Medical Inspector's certificate, Emigration Agent to grant a Pass.

XLII. After the examination in the last preceding Section provided, and if the Medical Inspector shall have given a certificate of the fitness of the Emigrant to emigrate, the Emigration Agent shall deliver to the Emigrant a Pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and age of the Emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

Protector of Emigrants to attend personally at examination and passing of Emigrants.

XLIII. The Protector of Emigrants shall attend personally at the examination and passing of Emigrants by the Emigration Agent under Sections XLI and XLII, and shall see that the

Emigration Agent makes all such enquiries of the Emigrants as it may be his duty to make; and if such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the Pass granted by the Emigration Agent.

And to countersign Pass.

XLIV. If any Emigrant shall without good and sufficient cause refuse or neglect to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such Emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the dopôt or elsewhere: but nothing in this Section shall be taken to diminish or affect in any way the legal liabilities, Civil or Criminal, of such Emigrant incurred by him by reason or in respect of his refusal or neglect aforesaid. Every case in which an Emigrant is charged before a Magistrate of a Presidency Town with refusing or neglecting to embark without good and sufficient cause, shall be heard and determined by such Magistrate in a summary manner, and every such laborer shall, on conviction, be punished in the manner provided in Section CCCCXCII of the Indian Penal Code for the punishment of offences under that Section.

Emigrants refusing to embark, not to be compelled to embark.

Proviso.

XLV. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration may be lawful under this Act, at all times of the year. For any such place West of the Cape of Good Hope, Emigrants may leave only between the thirty-first of July and the sixteenth of March, unless they embark in vessels using steam power, in which case they may leave at any time of the year.

Time of sailing for places East of Cape of Good Hope.

For other places.

XLVI. 1. It shall not be lawful to receive any Emigrant on board any vessel unless a license to carry Emigrants in such vessel shall have been obtained from the local Government, and the granting or withholding any such license shall be entirely discretionary with the local Government.

Emigrant not to be received on board an unlicensed ship.

2. The Master or owner of any vessel who is desirous of obtaining a license to carry Emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the local Government for such license.

Application for license.

3. Every application for a license shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

What to contain.

4. The Protector of Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for Emigrants, and to ascertain that she is properly ventilated and is supplied with all the requisite tackle for her voyage.

Survey of vessel.

5. The Protector of Emigrants shall make a full report on the survey to the local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of Emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

Report after survey, and certificate to Master.

6. In consideration of his obtaining a license to carry Emigrants, the Master of every vessel intended to carry Emigrants shall, upon the requisition of the Protector of Emigrants and before any Emigrant shall embark on board of such vessel, execute in duplicate a bond, in such form as the local Government shall prescribe, binding himself and his owners in a penal sum of ten thousand Rupees to conform to the several conditions in this Act provided. It shall be the duty of the Protector of Emigrants to require the Master to execute such bond as aforesaid in duplicate, and to forward one copy of it to the Government of the place to which the Emigrants are to be carried, and the other copy of it to the local Government.

Bond to be executed by Master.

XLVII. 1. No certificate under the last preceding Section shall be granted, unless there shall be provided for the Emigrants, either between decks or in cabins on the upper deck firmly

Space and accommodation required on board Emigrant ships

secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

2. No compartment shall take more than one adult Emigrant for every ten superficial feet on deck, and for every cubic space of seventy-two feet.

3. A distinct and separate place shall be fitted up for a hospital in every Emigrant Ship.

4. Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

5. An Emigrant above the age of ten years shall for the purposes of this Act count as an adult, and two children from one to ten years of age shall count as one adult.

Provisions, fuel and water to be shipped and taken.

XLVIII. 1. There shall be actually laden and on board of every vessel carrying Emigrants at the time of the departure of such vessel from the port at which the Emigrants shall embark, in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor-General of India in Council under Section LXIII, good and wholesome provisions for the use and consumption of the said Emigrants, with fuel for cooking the same, over and above the victualling of the Captain, Officers and crew, and of the Cabin and other passengers, if any, and a supply of water, which shall be carried in tanks or casks to be approved by the Protectors of Emigrants, to the amount of seven gallons for every week of the computed voyage for every Emigrant on board such ship or vessel. When casks are used they shall be sweet and tight, of sufficient strength, and if of wood properly charred inside, and shall not be capable severally of containing more than three hundred gallons each: the staves of the water casks shall not be made of fir, pine or soft wood.

Surgeon, Medicines, and stores to be carried.

2. Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such Medicines and other stores in such quantity

and of such quality as may be prescribed by any Rules made under Section LXIII.

Supply of water for vessel destined to call at intermediate port.

3. When any vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks or casks, a supply of water at the rate hereinbefore mentioned, for every week of the probable voyage to such port or place of calling, shall be deemed to be a compliance with this Section. The probable length of the voyage to such port or place of calling shall be determined from time to time by the Protector of Emigrants, subject to the approval of the local Government.

Reduction of supply on vessel fitted with distilling apparatus.

4. When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this Section.

Protector and Inspector of Emigrants to ensure compliance with above provisions.

5. It shall be the duty of the Protector of Emigrants and of the Medical Inspector of Emigrants to see personally that all the provisions of this Section are complied with.

Protector of Emigrants to see that Emigrants are supplied with extra clothing at a certain season of the year.

XLIX. Before any vessel carrying Emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every Emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage. Every Emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the Tropics.

Master of vessel to obtain certificates from Protector of Emigrants and from Emigration Agent.

L. Before any vessel licensed to carry Emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, it shall be necessary for the Master of such vessel to obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the Emigrants are intended to proceed, certificates under the hands of such Protector and Emigration Agent respectively, to

the effect following, that is to say:—that such Protector and Emigration Agent have, in respect of the Emigrant's proceeding in such vessel, done all which is hereinbefore by this Act required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions contained in this Act, for ensuring the health, comfort, and safety of the Emigrants, have been duly complied with, as well as all such rules as the Governor-General of India in Council shall from time to time frame under Section LXIII.

Emigrant unfit to undertake voyage not to be allowed to embark.

LI. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every Emigrant before embarkation, ascertain that the Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or decease. If the Protector of Emigrants shall be of opinion that any Emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit the embarkation of such Emigrant. The Protector of Emigrants shall also, before the embarkation of any Emigrant, ascertain that such Emigrant has in his possession the copy of the registration provided under Section XXX or Section XXXIII. If it shall appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost the copy of the registration aforesaid, the Protector may furnish such Emigrant with a copy of such registration to be made from the copy received by the Protector from the Magistrate under Section XXXII, or from the Register kept by himself under Section XXXIII, and shall thereupon allow such Emigrant to embark.

Provisions of Act to be explained to all Emigrants.

LII. The provisions of this Act so far as they are likely more immediately to affect them, shall be explained in a general manner by the Protector of Emigrants to all Emigrants prior to their embarkation.

Procedure on embarkation of Emigrants.

LIII. 1. When any Emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, speci-

fying, as accurately as may be, the names, ages and occupations, and the names of the fathers, of the Emigrants about to embark on board such vessel.

Emigrant to give his Pass to Master.

2. On embarkation, every Emigrant shall deliver to the Master of the vessel the Pass granted to him under Section XLII; and it shall not be lawful for the Master to receive any Emigrant on board unless he delivers up such Pass. The Master shall compare the Emigrants who embark and the Passes delivered by them, with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the Passes delivered and with the Emigrants embarked, the Master shall sign the five copies of the list.

Protector to be personally present.

3. It shall be the duty of the Protector of Emigrants to be personally present at the embarkation of all Emigrants, and to see that the Master duly compares the list with the Passes and Emigrants, and he shall himself also compare the list with the Passes and Emigrants.

One copy of list of Emigrants given to Protector, to be signed and returned to Master.

4. When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the Office of the Protector of Emigrants.

Emigrant not having Pass not to be allowed to remain on board.

5. The Protector of Emigrants shall not permit any Emigrant to remain on board who has not a Pass, or is not mentioned in the list aforesaid.

Pass to be returned to Emigrant on arrival at place of destination.

6. Every Pass delivered up to the Master of a vessel under this Section shall be returned by him to the Emigrant by whom the same was delivered up, prior to such Emigrant disembarking on the arrival of the vessel at her place of destination.

Copy of list of Emigrants to be signed by Emigration Agent, and returned to Master.

LIV. The Master of every vessel carrying Emigrants shall, after the embarkation of the Emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others

of the five copies of the list of Emigrants mentioned in the last preceding Section, duly signed by the Master. The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination, and previous to the disembarkation of any Emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper Officer, at such place.

And by him to be delivered at place of destination.

LV. Whenever a vessel carrying Emigrants shall have cleared and shall be proceeding to Sea, the Officer of Customs or the Pilot, whichever of these Officers shall remain last on board of the vessel, shall as shortly as conveniently can be before his leaving the vessel, make a muster of the crew and passengers and Emigrants. Such Officer of Customs or Pilot shall use as a muster-roll a copy of the list signed by the Master and by the Protector of Emigrants under Section LIII, which copy shall be furnished to him by the Master; and after the muster he shall sign such muster-roll, noting upon it such discrepancies (if any) as he may have observed.

Muster of crew and passengers and Emigrants.

LVI. Every Officer of Customs and Pilot who shall make a muster under the last preceding Section, shall make a declaration, stating according to the best of his belief that no additional Emigrant has been received on board since the list was signed by the Protector, and that nothinge lse has been done or omitted to be done in the vessel contrary to the provisions of this Act. Every such muster-roll and declaration shall be transmitted without delay to the Protector of Emigrants at the port of embarkation.

Declaration by Customs Officer or Pilot.

LVII. It shall be the duty of the Protector of Emigrants on the receipt of the muster-roll furnished by the Officer of Customs or Pilot under the last preceding Section, carefully to compare the same with the list signed by the Master filed in the Office of the Protector, and to report any discrepancy to the local Government.

Duty of Protector of Emigrants on receipt of list from Customs Officer or Pilot.

LVIII. The Protector of Emigrants shall, by every vessel which carries Emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the Emigrants embark, a correct and detailed list of all Emigrants embarked in such vessel, compiled from the Passes of the Emigrants, and from the list signed by the Master as aforesaid.

Protector shall send to Government of place to which Emigrants are going, a list of Emigrants on board each vessel.

LIX. The Master of every vessel carrying Emigrants from the Port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the Emigrants as shall have first embarked.

Vessels sailing from Calcutta to depart within twenty-four hours of embarking Emigrants.

LX. Every vessel sailing from the port of Calcutta with Emigrants shall proceed from Garden Reach to Sea under tow of a competent Steamer.

Vessels sailing from Calcutta to be towed to Sea by Steamer.

LXI. Two copies of this Act and of all Rules made by the Governor-General of India in Council under Section LXIII, and two copies of a translation of this Act and of such Rules, in such language or languages as the local Government may direct, shall be delivered to the Master of every vessel carrying Emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage, and one of such copies or translations shall, upon request made at all reasonable times to the Master of the vessel, be produced to any Emigrant or passenger for his perusal.

Copies of Act and Rules to be kept on board every vessel carrying Emigrants.

LXII. In case of sickness breaking out on board of any vessel conveying Emigrants to the British Dependency of Seychelles, such Emigrants may be taken to the Quarantine Station of the Island of Mauritius, and in such case such Emigrants may, at their option, contract for service at the said Island of Mauritius, or may proceed to the said Dependency of Seychelles; and if they shall elect to contract for service in the Island of Mauritius, such Emigrants shall then be regarded and

In case of sickness, Emigrants for Seychelles may be taken to Quarantine Station of Mauritius.

treated, in all respects, as if they had emigrated to the said Island under the provisions of this Act.

Power of the Governor-General in Council to make Rules.

LXIII. It shall be lawful for the Governor-General of India in Council from time to time to make Rules, and to repeal, alter, and amend the same, not inconsistent with the provisions of this Act,—

1. To regulate the proportion of women to be taken with Emigrants, and the age below or above which children shall not be taken;

2. To prescribe the description, quantity and quality of provisions to be taken by vessels carrying Emigrants, the daily allowance of food and water to be issued to each Emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the Emigrants;

3. To provide for the Medical care of Emigrants during their residence at the depôts and on their voyages;

4. To prescribe the nature, quality and quantity of Medical drugs and other stores to be carried on board such vessels;

5. To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

6. To provide for a Journal being kept by the Surgeon of every such vessel, of the health of the Emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

7. And generally to provide for the security, well-being and protection of Emigrants.

All such Rules shall be published in the Gazette of India and shall have the same force and effect as if they were contained in this Act.

Governor-General in Council may prohibit emigration of Native laborers to any place to which emigration is allowed.

LXIV. Whenever the Governor-General of India in Council shall have reason to believe, that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of Emigrants immediately upon their arrival in such place or during their

residence therein, or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage, it shall be lawful for the said Governor-General of India in Council, by notification published in the Gazette of India, to declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

Emigration to place mentioned to be suspended from the day specified in the notification.

LXV. After any notification shall have been published under the last preceding Section, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

During such suspension, all the laws against emigration shall be in force as to the place specified in the notification.

LXVI. During the time of such suspension, any provisions of this or of any other Act in force for the time being, prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labor to be performed by any Native of India out of the British Territories in India, shall take effect and be in force so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

Revocation of suspension.

LXVII. Whenever the Governor-General of India in Council shall be satisfied that, in the place specified in any notification under Section LXIV, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return passages to India for such Emigrants at or about the time at which they are entitled to such return passages, it shall be lawful for the said Governor-General of India in Council to notify in the Gazette of India that emigration to such place shall again be allowed from a day to be specified in such notification; and thereupon all the provisions of this or any other Act in force for the time being authorizing emigration to such place shall, from the day so speci-

fied, be revived and have the same force and effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

Fees received are to be accounted for to Government.

LXVIII. All fees received by any Magistrate, Protector of Emigrants, or other Officer under this Act, shall be accounted for to Government in such manner as the Governor-General of India in Council may direct.

Penalty for making unlawful contract of labor.

LXIX. Whoever shall, except under and in conformity with the provisions of this Act, make any contract with any Native of India for labor to be performed in any place beyond British India to which emigration is not authorized under this Act, or under the said Acts XLVI of 1860 and VII of 1862, shall be deemed to have committed the offence specified in Section 363 of the Indian Penal Code: and whoever shall knowingly enable or assist any Native of India to emigrate to any such place, or aid in or abet the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

Penalty for recruiting without being licensed.

LXX. Whoever not being a Recruiter duly licensed under this Act, shall act or be employed as a Recruiter of laborers, or shall contrary to the provisions of this Act enter into any contract with a Native of India for labor to be performed by such Native of India in any place beyond British India (whether emigration to such place is or is not authorized under this Act, or under the said Acts XLVI of 1860 and VII of 1862), shall be liable to a fine not exceeding five hundred Rupees.

Penalty for Recruiter failing to take the laborers he has engaged before the Magistrate of the District, or the Protector of Emigrants.

LXXI. Whoever being a duly licensed Recruiter, shall remove any Emigrant whom he may engage in any District or place other than the Towns of Calcutta, Madras, or Bombay, from such District or place, without such Emigrant having appeared along with the Recruiter before the Magistrate of the District in order that such person might be examined and registered;

and whoever shall remove any Emigrant whom he may engage in any one of the Towns of Calcutta, Madras, or Bombay, from such Town, or to an Emigration depôt, without such Emigrant having appeared with the Recruiter before the Protector of Emigrants in order that such person might be examined and registered; and whoever shall by means of intoxication, violence, fraud, or false pretences induce any Native of India to enter into a contract for labor to be performed by him in any place to which emigration shall be lawful under this Act, or to proceed to any such place without having entered into any contract; and whoever shall fail to supply any Emigrant whom he shall have engaged, and who shall be registered, with suitable food, or shall otherwise ill treat such Emigrant on his journey to the depôt; and whoever shall forward, send, or convey any such Emigrant otherwise than is provided in Section XXXVI, or to any house or place in or near the Towns of Calcutta, Madras, or Bombay, respectively, other than the depôt for the Emigrants for the place at which such Emigrant shall have contracted to labor—shall be liable to a fine not exceeding five hundred Rupees.

For inducing laborer to contract by fraud, &c.

For not supplying proper food, &c.

And for not taking the laborer to the depôt for the place at which he has contracted to labor.

LXXII. Whoever being a duly licensed Recruiter, shall forward or send any Emigrant from the District or Town in which he has enterd into an engagement, to any emigration depôt, without such Emigrant having been duly registered in accordance with the provisions of Sections XXX and XXXIII; and whoever being a duly licensed Recruiter, shall induce or knowingly permit any such Emigrant to leave such District or Town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the Emigrant being duly registered as aforesaid—shall be liable to a fine not exceeding five hundred Rupees.

Penalty for forwarding laborers or allowing them to go, without being duly registered.

LXXIII. Whoever without lawful authority, shall issue any written perwannah or order to the Police to assist himself or any other person to procure laborers to proceed to any place be-

Penalty for false representation of Government authority.

yond British India, or shall falsely represent that such laborers are required by the Government or are to be engaged on behalf of Government, shall be liable to a fine not exceeding five hundred Rupees.

Penalty for receiving Emigrants in an unlicensed vessel

LXXIV. If the Master of any vessel which shall not have been licensed as provided in Section XLVI, shall knowingly receive any Emigrant on board in order to convey such Emigrant to any place contrary to the provisions of this Act, such Master of such vessel shall be liable to simple or rigorous imprisonment for a period not exceeding one year, and also to a fine not exceeding one thousand Rupees for every such Emigrant received on board, and the vessel shall be liable to be forfeited.

Penalty for clearing ship without complying with rules

LXXV. If the Master of any vessel shall, at the port of Calcutta, the port of Madras, or the port of Bombay, clear such vessel for any place to which emigration shall be lawful under this Act and take on board any Emigrant without having fully complied with every particular required in Sections XLVIII and L, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board.

Penalty for taking on board after clearance, Emigrants not entered in list.

LXXVI. If the Master of any vessel shall, after having cleared such vessel for any place to which emigration shall be lawful under this Act, take on board any Emigrant without such Emigrant having been duly entered in the lists mentioned in Sections LIII and LIV, and in the manner in those Sections prescribed, he shall be liable to a fine not exceeding two hundred Rupees for every Emigrant so taken on board his vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

LXXVII. If the Master of any vessel cleared for any place to which emigration shall be lawful under this Act, shall after having obtained a certificate in accordance with the provisions of Section XLVI fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the vessel, or other matter to which such certificate relates, such Master shall be liable to a fine not exceeding five thousand Rupees, besides incurring a forfeiture of any

bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for proceeding to Sea without steam.

LXXVIII. If the Master of a vessel sailing from the port of Calcutta, licensed under Section XLVI and sailing with Emigrants on board, shall without reasonable excuse cause or allow his vessel to proceed from Garden Reach to Sea, or to proceed any part of the distance between Garden Reach and Sea, without his vessel being under tow of a competent Steamer, or if such vessel shall not have left Garden Reach and proceeded on her voyage within the time prescribed in Section LIX, the Master of such vessel shall be liable to a fine not exceeding one thousand Rupees.

Customs Officers and Pilots may search and detain for purposes of this Act.

LXXIX. All the powers vested by law in the Officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of Emigrants on board vessels bound for any place to which emigration shall be lawful under this Act, and of other offences against this Act; and all Pilots in the service of or licensed by Government are hereby vested, with the same powers and charged with the same duties as Officers of Customs in this behalf.

Penalty for false report by Customs Officer or Pilot.

LXXX. Any Officer of Customs or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrants on board of any vessel, or who shall connive at the unauthorized embarkation of any Emigrants, shall be liable, besides dismissal, to a fine of five hundred Rupees.

Prosecutions under this Act where and how to be instituted.

LXXXI. All prosecutions under this Act shall be instituted, on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an Officer appointed for the purpose by the local Government, before a Magistrate of Police, or before the Magistrate of the District, according as they shall be instituted for offences committed within or for offences committed

beyond the limits of the Towns of Calcutta, Madras, and Bombay.

Levy of fines.

All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Officer imposing the fine. When a warrant of distress is issued, the said Officer may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Officer imposing the fine, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Officer whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Officer imposing the fine, he shall, by warrant, commit the offender to jail, there to be imprisoned with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount. The fine or any part thereof which remains unpaid may be levied at any time within six years after the passing of the order imposing it; and the death of the offender does not discharge from the liability any property which would after his death be legally liable for his debts.

Any person specially authorized may exercise the powers of the Magistrate of the District under this Act.

LXXXII. It shall be lawful for the local Government from time to time to authorize any person invested with the powers of a Magistrate as defined in the Code of Criminal Procedure, to perform the duties and exercise the

powers by this Act assigned to and conferred on the Magistrate of the District: and every person so authorized shall in all respects for the purposes of this Act be deemed to be included in the words "the Magistrate of the District."

This Act, except certain Sections, not to apply to emigration to the French Colonies.

LXXXIII. So much of Section VIII of Act XLVI of 1860 as enacts that a fee not exceeding one Rupee per Emigrant as may be regulated from time to time by the local Government shall be demandable in respect of every license in the said Section mentioned, is hereby repealed. Save as aforesaid, nothing in this Act shall be held to repeal the said Act XLVI of 1860, or Act VII of 1862; but Section XIX to Section XLI, both included, being provisions for regulating the recruitment of Native laborers which will have effect on the recruitment of laborers for British Colonies, shall, as provided in Section IV of the said Act XLVI of 1860, apply to emigration under the said Acts XLVI of 1860 and VII of 1862.

Commencement of Act.

LXXXIV. This Act shall come into operation on the first day of July 1864.

Act and Rules made under it not to apply to certain vessels.

LXXXV. Nothing in this Act or in any Rule to be made by the Governor-General of India in Council under Section LXIII, shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

SCHEDULE A.

Number and date of Acts.	Title.	Extent of Repeal
Act XIV. 1839 ...	Relating to contracts for labor in British or Foreign Colonies.	The whole Act.
Act XV. 1842 ...	For regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to the Island of Mauritius.	The whole Act.
Act XXI. 1843 ..	For regulating the Emigration of Laborers from India to Mauritius	The whole Act.

Number and date of Acts	Title.	Extent of Repeal.
Act XXI 1844 ...	For regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to Jamaica, British Guiana, and Trinidad.	The whole Act.
Act XXV. 1845 ...	For regulating the time of sailing of ships carrying Emigrants from Madras to Jamaica, British Guiana, and Trinidad.	The whole Act.
Act VIII. 1847 ...	For rendering lawful the Emigration of Laborers from the Port of Madras, in the Presidency of Fort St. George to Mauritius.	The whole Act.
Act XIII 1847 ...	For repealing Act XIV of 1839, so far as it relates to the Emigration of Natives of India to the Island of Ceylon.	The whole Act.
Act IV. 1852 ...	To amend the law relating to Emigrant Vessels and the Emigration of Laborers.	The whole Act.
Act XXIV 1852...	For amending and explaining Act XIV. 1839, and for the better prevention of crimping.	The whole Act.
Act XXXI. 1855...	Relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.	The whole Act.
Act XIX. 1856 ...	To enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers.	So much of the Act as is not incorporated in Acts XLVI of 1860 and VII of 1862
Act XII 1860 ...	Relating to the Emigration of Native Laborers to the British Colony of St. Vincent.	The whole Act.
Act XXXIII. 1860	Relating to Emigration to the British Colony of Natal.	The whole Act.
Act XLI 1860	Relating to the Emigration of Native Laborers to the British Colony of Saint Kitts.	The whole Act.

Number and date of Acts	Title.	Extent of Repeal.
Act XLIX. 1860...	Relating to vessels carrying Emigrant Passengers to the British Colonies.	The whole Act.
Act XXII 1862 ...	Relating to Emigration to the British Colonial Dependency of Seychelles.	The whole Act.
Act VII. 1863 ...	Relating to the Emigration of Native Laborers to the Danish Colony of Saint Croix.	The whole Act.

SCHEDULE B.

Office of the Protector of Emigrants at the Port of

A. B. is hereby licensed under Act XIII of 1864 of the Governor-General of India in Council to be a Recruiter for engaging persons to proceed to , for the purpose of laboring for hire.

This license will be in force for one year only from this date.

Dated the day of

(Signed) C. D.,
Protector of Emigrants

JUDGE OF KONKAN.

ACT No. XIV. OF 1864.

(*Received the assent of the G. G, on the 18th March* 1864.)

Legalizes the Acts of the Judge of Konkan retrospectively from 25th February 1863.

Preamble.

WHEREAS the Government of Bombay is empowered under Act XXIX of 1845 to appoint, with the consent of the Governor-General of India in Council, a Joint Judge and a Joint Sessions Judge in any Zillah of the Bombay Presidency, whenever the state of judicial business shall render such appointment expedient; and whereas on the twenty fifth day of February 1863 the Government of Bombay

appointed a Joint Judge and Joint Sessions Judge of the Zillah of the Konkan, and did not obtain the consent of the Governor-General of India in Council until the eleventh day of July 1863, and whereas the High Court of Bombay has held that the consent of the Governor-General of India in Council alluded to in Act XXIX of 1845, signifies the previous consent, and it is therefore necessary to give legal validity to all orders and decisions passed and all proceedings held by any Officer exercising the powers of Joint Judge and Joint Sessions Judge of the Konkan between the twenty fifth day of February 1863 and the eleventh day of July 1863 It is enacted as follows —

Sanction given by Governor-General to appointment of Joint Judge of the Konkan to have effect as if given before the twenty-fifth of February 1863

1. The consent granted by the Governor-General of India in Council on the eleventh day of July 1863 to the appointment by the Government of Bombay of a Joint Judge and Joint Sessions Judge of the Konkan, shall have the same effect as if it had been granted before the twenty-fifth day of February 1863, and no order or decision passed and no proceeding held in any Civil or Criminal case by any Officer appointed to the said office of Joint Judge and Joint Sessions Judge of the Konkan on or after the said twenty-fifth day of February 1863 and before the said eleventh day of July 1863, shall be deemed to be invalid merely by reason of such order or decision having been passed or such proceeding having been held without the consent of the Governor-General of India in Council to the appointment of Joint Judge or Joint Sessions Judge of the Konkan having been previously given.

TOLLS ON ROADS AND BRIDGES.

ACT No. XV. OF 1864.

(Received the assent of the G. G on the 24th March 1864)

1 Substitutes a new Schedule of Rules and Tolls instead of the Schedule of Act VIII 1851, at the discretion of Government.

2—4. Authorizes imposition of Tolls, and (3) extension of this Act by local Government; (4) that is, by the officer administering the executive power of Government

Schedule of Tolls

Preamble.

WHEREAS by Act VIII of 1851 *(for enabling Government to levy Tolls on Public Roads and Bridges)* authority was given for the levy of certain rates of Toll, not exceeding the rates mentioned in the Schedule annexed to that Act; and whereas it is expedient to make certain alterations in respect to the rates in the said Schedule mentioned; It is enacted as follows:—

Schedule of Act VIII of 1851 repealed, and another Schedule substituted.

I. In any place to which this Act shall be extended by the Local Government, the Schedule to the said Act VIII of 1851 shall be of no effect except as to any proceedings pending at the time at which this Act shall be so extended and except as to any rate of Toll levied theretofore: and all the provisions of the said Act, applicable or referring, to the rates of Toll mentioned in the said Schedule, shall be applicable and refer to the rates of Toll mentioned in the Schedule to this Act annexed, which shall be read with and taken as part of the said Act VIII of 1851.

Collectors of Tolls may compound for Tolls leviable under Act VIII of 1851 or this Act.

II. Any person entrusted with the management of the collection of Tolls under Act VIII of 1851, may in his discretion compound for any period not exceeding one year with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of Toll specified in the Schedule to the said Act VIII of 1851 or in the Schedule to this Act.

This Act where to have operation.

III. The local Government may extend this Act to any place in which the said Act VIII of 1851 is in force; and the local Government of any place in which the said Act VIII of 1851 is not in force may extend the said Act VIII of 1851 and this Act to such place

"Local Government."

IV. For the purposes of this Act, the words "local Government" shall denote the person authorized by law to administer executive Government in any part of the territories vested in Her Majesty by the Statute 21 and 22 Vic, cap. 106, entitled "An Act for the better Government of India"

SCHEDULE.

	Rs.	A.	P.
On every four-wheeled Carriage	2	0	0
On every two-wheeled Carriage	1	0	0
On every Ekka	0	4	0
On every hackery on springs	0	2	0
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses, or mules, if laden	1	8	0
Ditto, if not laden	0	8	0
On every cart and hackery drawn by 6 bullocks, buffaloes, horses, ponies, asses, or mules, if laden ...	0	12	0
Ditto, if not laden	0	6	0
On every cart or hackery drawn by 4 bullocks, buffaloes, horses, ponies, asses, or mules if laden ...	0	8	0
Ditto, if not laden	0	4	0
On every cart and hackery drawn by 2 bullocks buffaloes, horses, ponies, asses, or mules, if laden .	0	4	0
Ditto, if not laden	0	2	0
Buffaloes or bullocks, per head, if laden	0	1	0
Ditto, if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	8	0
Ditto, if not laden	0	4	0
On every horse, if laden or ridden	0	1	6
Ditto, unladen or led	0	0	9
On every tattoo or mule, if laden or ridden ...	0	0	9
Ditto, unladen or led	0	0	6
On every ass, if laden or ridden	0	0	6
Ditto, unladen or led	0	0	3
On every sheep, or goat, or pig	0	0	1
On every palankeen, dooly, palna, or tonjon with 8 bearers	1	0	0
Ditto .. .. with 6 bearers	0	12	0
Ditto ... ... with 4 bearers	0	8	0
Ditto ... ... with 2 bearers	0	4	0
On every foot passenger	0	0	3

N. B.—Animals drawing any vehicle for which Toll can be demanded are not to be also charged with Toll.

REGISTRATION OF ASSURANCES.

ACT No. XVI. OF 1864.

(Received the assent of the G. G. on the 24th March 1864.)

1—2. Repeals Scheduled Regulations and Acts, except as to Instruments registered under them; and (2) all other Regulations in parts to which this Act shall be extended.

3. Defines the terms, "British India," "Local Government," "Year and Month," "Section," and construes words of "Number and Gender."

4. Authorizes the Governor-General in Council, by declaration in the *Indian Gazette*, to give the Head Officer in Districts under the administration of the Government of India possessed of the powers under this Act.

REGISTRATION ESTABLISHMENT.

5—12. Authorizes local Government to establish General Register Office and appoint officers; and (6) make Registry Districts, and (7) prescribe limits of Register Office for Presidency Towns, with Sub-Districts; and (8) District Officers, and Deputy Registrars, except in Presidency Towns, as to which (9) prescribes; and (10) provides for case of absence or vacancy in any Register Office; and (11) salaries and pay to be fixed by local Government, &c.; and (12) Registrars to have a Seal of Office.

INSTRUMENTS TO BE REGISTERED.

13—16. No deed of gift of immoveable property or lease for more than a year, or conveyance or receipt, &c., to be received in evidence unless registered, if executed after Act comes in operation, except leases in Madras of revenue-paying land: and (14) the stamp affixed to be the criterion of value; and (15) a suit may be instituted to establish right to registration if refused; and (16) the same kind of Instruments for value under 100 Rs. may optionally be registered, also Instruments relating to moveable property, Wills and Authorities to adopt, Decrees, Orders, and Money Deeds, Bonds, Contracts, &c., and all other Obligations.

TIME OF REGISTRATION.

17—20. Twelve months time for registration of Instruments executed before Act; and (18) four months from date of execution afterwards, of Deeds, registration of which is compulsory; and (19) two months, of other Instruments; (20) except Wills and Authorities to adopt, which may be registered at any time.

PLACE OF REGISTRATION.

21—25 Instruments concerning immoveable property to be registered where property is situate; and (22) all other Instruments, where executed; and (23) where property is not all in one Sub-District, registration may be in any Sub-District, &c.; and (24) Instruments in language not understood by Deputy Registrar to be forwarded to District Registrar; and (25) if property

is situate in more districts than one, registration may be in any one, &c.

26. Registrar General may register any Instrument of which registration is compulsory, without reference to local site of property; but (27) copy to be sent to District Registrar.

28. Directs by whom Instruments are to be presented for registration.

MODE OF REGISTRATION.

29—34. Registrar to satisfy himself by enquiry that the Instrument has been executed rightly, and as to personal title of parties executing; and (30) enter in book names, &c., of parties examined; and (31, 32, 33, 34) are as to summoning witnesses.

35. Instrument with interpretation, &c., not to be registered unless interpretation, &c., be verified.

36—37. Directs what particulars shall be endorsed on Instrument at time of registration, and (37) how endorsement is to be signed.

38—39. Registered Instrument to be copied in book, and (39) returned to party with certificate of registration.

40—42. Abstract of every registered Instrument affecting immoveable property to be made and forwarded in duplicate to Deputy Registrar, and (41) one part sent to Registrar General, who (42) shall enter same in a book.

DECREES AFFECTING REGISTERED INSTRUMENTS.

43—45. Where a decree affects the validity or operation of any registered Instrument, a memorandum thereof be sent to the Registry Office; and (44) shall be there registered; and (45) the like memorandum to be sent to Registry Office of Decrees concerning immoveable property, and there to be registered.

REGISTRATIONS OF WILLS, CODICILS AND AUTHORITIES TO ADOPT.

46—50. Applies provisions of Section 28 for registration of the above documents, and (47) directs how such Instrument shall be registered; and (48) how they may be withdrawn; and (49) how they are to be dealt with in case of death of depositor; and (50) authorizes certified copies to be given, and makes such copies evidence of original.

SPECIAL REGISTRATION OF OBLIGATIONS FOR PAYMENT OF MONEY.

51—52. Provides for registration of Bonds and other Obligations for payment of money; and (52) provides for their enforcement without suit.

REGISTRATION FEES.

53—54 Fees to be fixed by Government, and (54) paid into Government Treasury.

REGISTERS.

55. As to Book, and the mode of keeping them.

56—59 Registers to be of four specified kinds, and (57) entries to be numbered, and (58) entries to be kept, and (59) in District Offices separate Books to be kept for registration of powers to adopt son.

60 Provides for inspection of registered Instruments.

GENERAL RULES.

61—71. As to control over Deputy Registrar; (62) gives appeal from refusal of Deputy Registrar to Registrar; but (63) not from admitting to registration.

64. Gives Registrar General a general control over all Register offices, &c.

65. Provides for attendance of Registrars at residence of parties, to register, &c.

66. Reasons to be recorded for every refusal to register.

67. Registered Instruments to operate from same date as if not registered, &c.

68. Registered Instruments of specified kind to have priority to Instruments not registered.

69. Provides special mode of registering Instruments on behalf of Government and Public Offices.

70. False declarations under this Act to be punishable under Indian Penal Code, Section 191.

71. Act to come into operation on 1st January 1865 in three Presidencies, but elsewhere only when extended by order of Government.

Schedule of Repealed Regulations under Acts.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the Registration of Assurances; It is enacted as follows:—

REPEAL OF REGULATIONS AND ACTS.

Laws repealed.

I. The Regulations and Acts and parts of Regulations and Acts set forth in the Schedule annexed to this Act are hereby repealed to the extent mentioned in the said Schedule, except in so far as such Regulations or Acts rescind other Regulations or Acts, and except as regards Instruments duly registered under them or any of them before the date on which this Act shall come into operation.

Repeal of rules relating to the Registration of Assurances in certain Territories.

II. From the date on which this Act shall be extended as hereinafter provided to any part of British India in which the Regulations and Acts mentioned in the Schedule annexed to this Act are not in force, all Rules and Regulations relating to the Registration of Assurances in force in such part of British India shall cease to have effect, except as regards Instruments duly registered under any of the said Rules or Regulations in such part of British India.

DEFINITIONS.

III. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction—that is to say:—

Interpretation.

The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca:

"British India."

The words "Local Government" denote the person or persons authorized by law to administer the Executive Government in any part of British India:

"Local Government."

The words "year" and "month" denote a year or month respectively by the British Calendar:

"Year" and "month."

The word "Section" denotes a Section of this Act:

"Section."

Words importing the singular number include the plural number; words importing the plural number include the singular number:

Number.

Words importing the masculine gender include females.

Gender.

IV. It shall be lawful for the Governor-General of India in Council, by an order to be published in the Gazette of India, to declare that in any Territory under the immediate administration of the Government of India the Head Executive Officer of such Territory shall exercise the powers vested by this Act in the local Governments, and thereupon such Officer shall, for the purposes of this Act, be the local Government of such Territory as defined in this Act.

The Head Executive Officer of certain Territory may be vested with the powers conferred by this Act on local Governments.

REGISTRATION ESTABLISHMENT.

V. Every local Government shall establish within the Territories subject to such Government, at such place as to it shall seem fit, an Office to be

General Register Office.

called the General Register Office, and shall appoint an Officer to the charge of such Office, who shall be the Registrar General of the Territories for which he is appointed. Nothing in this Act contained shall make it unlawful for any Registrar General to hold simultaneously any other Office to which he may be appointed by the local Government.

Formation of Districts and Sub-Districts.

VI. For the purposes of this Act, the local Government shall form Districts and shall divide such Districts into Sub-Districts, and shall prescribe and from time to time may alter the limits of the Districts and Sub-Districts so formed.

The local Government shall also for the purposes of this Act prescribe the limits of the Presidency Towns of Calcutta, Madras, and Bombay respectively: and every such Town shall for the purposes of this Act be deemed a District.

The local Government may, if it shall think fit so to do, divide the said Presidency Towns respectively into Sub-Districts, and may from time to time alter the limits of the said Presidency Towns and of the said Sub-Districts thereof.

The Districts and Sub-Districts formed under this Section, together with the limits thereof, and every alteration of such limits, shall be forthwith notified by the local Government in the Official Gazette.

Establishment of Register Offices.

VII. The local Government shall establish in every District an Office to be styled the District Register Office and in every Sub-District an Office to be styled the Deputy Register Office.

Appointment of District and Deputy Registrars.

VIII. The local Government may appoint such persons, whether Public Officers or not as it may think proper, to be District Registrars of the several Districts, and to be Deputy Registrars of the several Sub-Districts formed as aforesaid respectively: provided that, except in the said Presidency Towns of Calcutta, Madras, and Bombay, no person shall at the same time hold both the Office of District Registrar and the Office of Deputy Registrar.

Duties of District Registrar of a Presidency Town not divided into Sub-Districts.

IX. In each of the Presidency Towns aforesaid not for the time being divided into Sub-Districts, the District Registrar shall perform all the duties of a Deputy Registrar of a Sub-District under this Act in the same manner and subject to the same rules as if such Presidency Town were a Sub-District; provided that there shall be no appeal under Section LXII from his order.

Provision for cases of absence of Registrars or vacancy in the office.

X. In case of the absence of any Deputy Registrar, or of a vacancy occurring in the Office of any Deputy Registrar, it shall be lawful for the District Registrar to whom such Deputy Registrar is subordinate to appoint any person whom he may think proper to take temporary charge of the Office of such Deputy Registrar, and to register Instruments in the same manner as if such person had been appointed to the Office by the local Government. In case of the absence of any District Registrar, or of a vacancy occurring in the Office of any District Registrar, the Judge of the principal Court of original Civil jurisdiction of the District shall, during such absence or vacancy, be the District Registrar. In case of the absence of the District Registrar of a Presidency Town, or of a vacancy occurring in the Office of any such Registrar, it shall be lawful for the Registrar General of the Presidency, or place, to appoint any person whom he may think proper to take temporary charge of the Office of such Registrar.

Salaries and establishments.

XI. It shall be lawful for the local Government, with the sanction of the Governor-General of India in Council, to assign such salaries as such local Government may from time to time deem proper, to the Registrar General, the District Registrars, and the Deputy Registrars appointed under this Act, or to provide for the remuneration of such Officers by fees, or partly by fees and partly by salaries. It shall also be lawful for the local Government, with the like sanction, to allow such Establishments for the General Register Office and for the Offices of the several District Registrars and Deputy Registrars as may be necessary for the purposes of this Act.

XII. The Registrar General and the several District Registrars and Deputy Registrars shall use a seal bearing the following inscription in English and in such other language as the local Government shall direct: "The Seal of the Registrar General (*or of the District Registrar, or Deputy Registrar*) of ."

Seal of Office

INSTRUMENTS TO BE REGISTERED.

XIII. No Instrument being a deed of gift of immoveable property, no lease of immoveable property for any period exceeding one year, no Instrument (other than a deed of gift or lease as aforesaid) which purports or operates to create declare, transfer, or extinguish any right, title, or interest of the value of one hundred Rupees or upwards in any immoveable property, and no Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest as above, of such value as aforesaid, in any immoveable property, shall be received in evidence in any Civil proceeding in any Court, or shall be acted on by any Public Officer, if such Instrument shall have been executed on or after the date on which this Act shall come into operation, and if the property to which such instrument relates shall be situate in any part of British India in which this Act is in force, unless the same shall have been registered in the manner and within the time prescribed by this Act. Provided that the provisions of this Section shall not apply to any lease executed between landlord and tenant relative to land in the Presidency of Madras liable to the payment of revenue to Government, but any such lease may be registered under Section XVI, subject to the provisions of Sections XVII and XIX.

Certain Instruments not to be received in evidence in any Civil proceeding unless registered according to provisions of this Act

Proviso.

XIV. For the purposes of this Act, the value of the right, title, or interest in any immoveable property created, declared, transferred, or extinguished by any Instrument shall be taken to be the value indicated by the Stamp affixed

Mode of determining the value of the right, title, or interest affected by Instruments required to be registered.

thereto or impressed thereon under Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), or under any other Act for the time being in force, for regulating the Stamp Duties.

On refusal to register, regular suit may be brought to enforce registration.

XV. If a District Registrar or Deputy Registrar shall refuse to register an Instrument falling within the Provisions of Section XIII, it shall be lawful for any person interested to institute a regular suit in order to establish his right to have such Instrument registered, and the Instrument shall be admissible in evidence for the purposes of such suit. The District Registrar or Deputy Registrar who refused to register such Instrument shall not be made a party to any such suit, but the Court may if it shall think proper order such District Registrar or Deputy Registrar to register the Instrument, and he shall be bound to comply with the order. The petition of plaint in any suit instituted under this Section shall be written on paper bearing a stamp of the value of eight annas.

Instruments whereof the registration is optional.

XVI. On and after the date on which this Act shall come into operation, any of the following Instruments executed on or after the said date may be registered under this Act :—

1. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest of value less than one hundred Rupees, in any immoveable property.

2. Any Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration transfer, or extinction of any right, title, or interest, of such value as aforesaid, in any such immoveable property.

3. Any lease for a period not exceeding one year.

4. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any moveable property.

5. Any Will, Codicil, or Authority to adopt a son.

6. Any decree or order of Court or private award of arbitration.

7. Any Deed, Bond, Contract, or other Obligation.

TIME OF REGISTRATION.

What Instruments not to be accepted unless presented for registration within twelve months after the coming into operation of this Act.

XVII. No Instrument of the descriptions mentioned in Sections XIII and XVI (other than a Will, Codicil to a Will, or Authority to adopt a son), which shall have been executed before the date on which this Act shall come into operation, shall be accepted for registration unless such Instrument be presented for registration within twelve months from such date.

What Instruments not to be accepted unless presented for registration within four months after execution.

XVIII. No Instrument of the descriptions mentioned in Section XIII, which shall have been executed after the date on which this Act shall come into operation, shall be accepted for registration unless presented for that purpose to the proper Officer within four months from the date of the execution thereof.

What Instruments not to be accepted unless presented for registration within two months after execution.

XIX. No Instrument of any of the descriptions mentioned in Section XVI (other than a Will, Codicil to a Will, or Authority to adopt a son), which shall be executed after the date on which this Act shall come into operation, shall be accepted for registration unless presented within two months from the date of the execution thereof.

What Instruments may be registered at any time.

XX. Any Will, Codicil to a Will, or Authority to adopt a son, may at any time be registered in the manner hereinafter provided, by the person making such Will or Codicil, or giving such Authority.

PLACE OF REGISTRATION.

In what Office certain Instruments to be presented for registration.

XXI. Save as in this Act otherwise provided, every Instrument which purports of operates to create, declare, transfer, or extinguish any right, title, or interest in any immoveable property, and any Instrument acknowledging the receipt or

payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest in any immoveable property, or any lease, shall be presented for registration in the Office of the Deputy Registrar within whose Sub-District the property is situate.

In what Office other Instruments to be presented.

XXII. Every Instrument other than an Instrument of the nature specified in the last preceding Section, shall be presented for registration in the Office of the Deputy Registrar within whose jurisdiction such Instrument is executed, or at any Registry Office under the same local Government, at which all the parties executing such Instrument shall desire the same to be registered.

To what Officer Instruments affecting immoveable property situate in more than one Sub-District to be presented for registration.

XXIII. Every Instrument affecting immoveable property the whole of which, although situate in one District, is not situate in one Sub-District, may be presented for registration to any Deputy Registrar within whose Sub-District any part of such property is situate. It shall be the duty of such Deputy Registrar, after registering the Instrument, forthwith to cause to be made and to forward a copy thereof, endorsed in the manner provided in Section XXV, to the District Registrar to whom he is subordinate, who shall register the same, and forward a copy of such Instrument and of the endorsement aforesaid, to every Deputy Registrar in his District in whose Sub-District any part of such property is situate, other than the Deputy Registrar in whose Office the Instrument shall have been originally registered, and every Deputy Registrar who shall recieve such copy shall forthwith register the same.

To what Officer Instruments in language not understood by Deputy Registrar to be referred.

XXIV. If any Instrument tendered for registration be in a language which the Deputy Registrar does not understand, the Deputy Registrar shall refuse to register the Instrument, and shall refer the parties to the District Registrar, who shall deal with Instrument in the same manner as he is required by this Act to deal with Instruments presented to him in the first instance for registration.

To what Officer Instruments affecting immoveable property situate in more than one District to be presented for registration.

XXV. Every Instrument affecting immoveable property situate in more Districts than one, may be presented for registration to the District Registrar of any such District in which any part of such property is situate. It shall be the duty of such District Registrar, after registering the Instrument, to cause to be made and to forward to the District Registrar of every District in which any other part of such property is situate, a copy of such Instrument, endorsed with an attestation stating the date on which it was registered and its number in his Register Book. The District Registrar receiving such copy so forwarded and endorsed shall register the same as if it had been presented to him in the first instance, and shall forward a copy of such instrument and of such endorsement as aforesaid to the Deputy Registrar of each Sub-District within the local limits of his jurisdiction in which any part of such property is situate, and every Deputy Registrar who shall receive such last mentioned copy shall forthwith register the same.

Registration by Registrar General.

XXVI. It shall be lawful for the Registrar General in his discretion to receive and register any Instrument of the nature specified in Section XXI, which may be presented at his Office for registration, without reference to the situation of the property to which the Instrument relates. In registering any Instrument under this Section, the Registrar General shall follow the mode of registration hereinafter prescribed for the registration of Instruments presented in the first instance to a District Registrar or a Deputy Registrar.

Proceedings in case of registration by Registrar General.

XXVII. It shall be the duty of the Registrar General, on any such Instrument being registered in his Office under the last preceding Section, to cause to be made and forwarded to every District Registrar within the local limits of whose jurisdiction any part of the property to which the Instrument relates is situated, a copy of such Instrument endorsed with an attestation stating the date on which it was registered and the number in his Register Book; and the District Registrar receiving such

copy shall register the same as if it had been presented to him in the first instance, and shall forward a copy thereof and of the endorsement aforesaid to the Deputy Registrar of each Sub-District within his jurisdiction in which any part of such property is situate, and every Deputy Registrar who shall receive such copy shall register the same.

By whom Instruments, with certain exceptions, are to be presented for registration.

XXVIII. Every Instrument to be registered under this Act, not being a Will, Codicil to a Will, or an Authority to adopt a son, shall be presented at the Office in which such Instrument is to be registered by all the parties executing the same, or by the heirs, representatives, or assigns of such parties, or by the authorized agents of such parties, or of their heirs, representatives, or assigns under a power of attorney special or general. But no such power of attorney shall be recognized for the purposes of this Act unless it shall have been executed in the presence of, and duly attested by, the District Registrar or Deputy Registrar within the local limits of whose jurisdiction the person executing the same resides if he reside in any part of British India subject to the operation of this Act, or if he reside in a part of British India not subject to the operation of this Act, unless it shall have been executed in the presence of, and been duly attested by, the Officer presiding over the principal Court of original Civil jurisdiction within the local limits of whose jurisdiction the person executing the same resides. If the person executing such power of attorney do not reside within any part of British India, it shall not be recognized for the purposes of this Act unless it shall have been executed in the presence of, and duly attested by, an Officer of the British Government, or by a Notary Public where there is such a functionary. The provisions contained in this Section relating to the execution of powers of attorney in the presence of the District Registrar or Deputy Registrar, shall not apply in the case of a Native woman of a rank or description, which according to the customs of the country would render it improper to require her personally to attend at the Office of the District Registrar or Deputy Registrar. In the case of any woman of the rank or description above

mentioned, the District Registrar or Deputy Registrar, if satisfied that the power of attorney is the free and voluntary act of the woman by whom it purports to have been made, may attest the same without requiring her personal attendance at his Office. For the purpose of satisfying himself on this point, the District Registrar or Deputy Registrar may proceed or depute some trustworthy person to the residence of the woman to take her examination in the mode prescribed for taking the evidence of Native females of rank.

MODE OF REGISTRATION.

Enquiry before registration by the District Registrar, or Deputy Registrar.

XXIX On the parties to any Instrument, their heirs, administrators, or assigns, or the agents of such parties authorized as hereinbefore provided appearing before the District Registrar or Deputy Registrar for the purpose of obtaining the registration of such Instrument, he shall proceed to enquire whether such Instrument was executed or not by all the parties thereto by whom it purports to have been executed, and to satisfy himself of the right of any person to appear as the heir, administrator, or assign of any party whom he shall claim to represent, or if any party shall appear by agent, of the authority of such agent. If all the parties executing the Instrument appear personally before the District Registrar or Deputy Registrar and are personally known to him, or in case they are not personally known to him if they satisfy him that they are the parties they represent themselves to be, and if they all admit the execution of the Instrument, or in the case of any party appearing by authorized agent if such agent shall admit the execution of the Instrument, the District Registrar or Deputy Registrar shall register the same.

Entries to be made as to persons examined.

XXX. The District Registrar or Deputy Registrar shall enter in the Register Book the name and address in full of every person whom he may examine as to any of the matters in the last preceding Section mentioned.

Mode of enforcing attendance of person whose testimony is required by Deputy Registrar.

XXXI. If any party to an Instrument shall require assistance to procure the attendance of a person whose testimony is necessary for the registration of such Instrument by a Deputy Registrar, such Deputy Registrar may in his discretion, and if such person shall be within the local limits of the jurisdiction of such Deputy Registrar, issue a summons requiring such person to attend at the Office of such Deputy Registrar at a time named in such summons.

Application when to be made to District Registrar.

XXXII. If the person whose attendance is required is not within the local limits of the jurisdiction of the Deputy Registrar, the party to the Instrument who requires his attendance shall apply through the Deputy Registrar to the District Registrar in whose District such person is, and the District Registrar may in his discretion issue a like summons for the attendance of such person at the Office of such Deputy Registrar.

Mode of enforcing attendance of person whose evidence is required by a District Registrar or Registrar General.

XXXIII. The provisions of the last two preceding Sections shall apply *mutatis mutandis* to all cases in which a party executing an Instrument shall require assistance to procure the attendance of a person whose testimony is necessary for the registration of such Instrument by a District Registrar or by a Registrar General.

Law relating to attendance of witnesses in suits in Civil Courts to apply to persons summoned as witnesses under this Act.

XXXIV. The provisions of the Acts in force for the time being for procuring the attendance of witnesses for the examination, remuneration, and punishment of witnesses in suits before Civil Courts, shall be of equal force and effect in respect of any person summoned to appear as a witness under the foregoing provisions of this Act.

Erasures or interlineations in Instruments presented for registration.

XXXV. No Instrument shall be accepted for registration if any interlineation, erasure, or alteration shall appear on such Instrument, unless the parties appearing to register the same shall attest with their signatures such interlineation, erasure, or altera-

tion; and it shall be the duty of the Officer registering such Instrument, at the time of registering it, to make a note in the Register of such interlineation, erasure, or alteration.

Particulars to be endorsed on Instrument admitted to registration.

XXXVI. On every Instrument admitted to registration there shall be endorsed the following particulars,—that is to say—

1. The date and hour of presentment.

2. The names in full of the parties executing the Instrument; and if it shall have been presented by the heir, representative, or assign, or by the agent of any party, the name of such heir, representative, assign or agent.

3 The name and address in full of every person whose evidence may have been taken under any of the provisions of this Act.

4. Any payment of money or delivery of goods made in the presence of the District Registrar or Deputy Registrar.

Endorsement by whom to be signed and how to be certified.

XXXVII. The endorsements hall be signed by every party executing the Instrument, or by his heir, representative, or assign, or by his agent, and shall be certified by the seal and signature of the District Registrar or Deputy Registrar. The Instrument thus endorsed shall be *primâ facie* proof on the production thereof in any Court that such Instrument has been duly registered in the manner provided in this Act. Provided that it shall be competent to the Court to require further evidence of such registration if it shall see sufficient cause for doing so.

Registered Instrument to be copied and numbered.

XXXVIII. Every Instrument admitted to registration and endorsed as hereinbefore provided, shall be copied in its appropriate book according to the order of its presentation, and shall be numbered accordingly.

And returned with a further endorsement.

XXXIX. After the provisions of Sections XXXVI, XXXVII, and XXXVIII shall have been complied with, the Instrument shall be returned to the party who shall have presented the same for registration, with a further endorsement inscribed thereon and certified as above, containing the number and page of the book

in which the copy and the registration of the Instrument shall have been made.

The forwarding duplicate abstracts of certain Instruments registered in the Office of Deputy Registrar.

XL. An abstract of every original Instrument affecting immoveable property registered in the Office of any Deputy Registrar, shall with an endorsement attesting the date on which it was registered and its number in the Register Book of such Deputy Registrar, within seven days be forwarded in duplicate to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office.

The forwarding abstracts of certain Instruments registered in the Office of the District Registrar.

XLI. An abstract of every original Instrument affecting immoveable property registered in the Office of any District Registrar, shall with an endorsement attesting the date on which it was registered and its number in the Register Book of such District Registrar, within seven days be forwarded to the General Register Office.

Such abstracts to be entered in General Register Office.

XLII. On the receipt in the General Register Office, of the abstract of any entry made in any Register, the same shall be entered in the Book No. 1, 2, 3, or 4, described in Section LVI of this Act, as the case may be.

DECREES AFFECTING REGISTERED INSTRUMENTS.

In what cases Memorandum of decree affecting certain registered Instruments to be sent to the Office in which such Instrument shall have been registered.

XLIII. When any Civil Court shall by a decree or order declare any Instrument relating to immoveable property which shall have been registered under this Act to be invalid, or when any Civil Court shall pass a decree or order affecting the validity or otherwise of any such Instrument, and such last mentioned decree or order shall create, declare, transfer, limit, or extinguish any right, title, or interest under such Instrument in the immoveable property to which it relates, such Court shall cause a Memorandum of the decree or order to be sent to the Office in which such Instrument shall have been originally registered.

Proceedings on receipt of such Memorandum.

XLIV. Whenever any Memorandum is received under the last preceding Section, a transcript thereof shall immediately be made in the margin of the part of the book in which there is any register of the Instrument affected by such Memorandum: and the District Registrar or Deputy Registrar shall forthwith transmit a copy of such Memorandum to the Registrar General, and to every District Registrar and every Deputy Registrar in whose Office the said Instrument or any abstract thereof is registered.

To what Registrars Memorandum of decrees affecting immoveable property to be sent.

XLV. When any Civil Court shall by a decree or order create, declare, transfer, limit or extinguish any right, title, or interest of any person in any immoveable property situate in any part of British India in which this Act is for the time being in force, such Court shall cause a Memorandum of the said decree or order to be sent to every District Registrar and every Deputy Registrar within the local limits of whose jurisdiction such immoveable property or any part thereof is situate. Every such Memorandum received by a District Registrar or Deputy Registrar shall be entered by him in a book to be kept for the registration of decrees and orders: and a copy of such Memorandum shall be sent to the Registrar General.

REGISTRATION OF WILLS, CODICILS, AND AUTHORITIES TO ADOPT.

Mode of presenting for registration Wills, Codicils, and Instruments giving authority to adopt.

XLVI. Any person wishing to register his Will, a Codicil to his Will, or any Instrument giving authority to adopt a son after his decease, shall either personally or by a duly authorized agent deliver such Will or Codicil, or Instrument, in a sealed cover superscribed with the name of the depositor and the nature of the Instrument, to a District Registrar who shall, if the Will, Codicil, or Instrument be presented in person, satisfy himself of the identity of the person presenting it, or if the Will, Codicil, or Instrument be presented by an agent, shall satisfy himself of the authority of such agent as provided in Section XXVIII.

Such documents how to be entered.

XLVII. If satisfied as above, the District Registrar shall enter the receipt of every sealed cover delivered to him under the last preceding Section in the Register of Deposits of Wills, Codicils, and Instruments giving authority to adopt, transcribing therein the superscription on such sealed cover, and noting in the Register and on the sealed cover the year, month, day, and hour of such receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the depositor. The District Registrar shall then place the sealed cover in a fireproof box to be supplied by Government for that purpose.

Withdrawal of such documents.

XLVIII. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply by petition to the principal Court of original Civil jurisdiction having jurisdiction where the sealed cover was deposited, for an order that the same be given up to him. If the Court shall be satisfied as to the identity with the depositor of the person applying for such an order, it may if it shall see fit make such an order as applied for, and the District Registrar in whose Office the sealed cover was deposited shall deliver up the same in obedience to the order.

Proceedings on death of depositor.

XLIX. If on the death of the depositor of a sealed cover under Section XLVI, application be made to the District Registrar in whose Office the said sealed cover was deposited to open the same, the District Registrar, after satisfying himself that the depositor is dead, shall in the presence of the person making such application open the sealed cover, and shall enter a copy of the contents thereof, to be made at the expense of the applicant, in a Register of Wills, Codicils, and Instruments giving authority to adopt a son.

Re-deposit of such documents.

When such copy shall have been entered, the District Registrar shall re-deposit the original Will, Codicil, or Instrument, until required to produce the same in a Court of Justice.

L. The District Registrar shall furnish to any applicant who shall pay to him the fees payable under this Act in respect thereof, a copy authenticated by his signature, of any Will re-deposited under the last preceding Section. And any copy certified by the District Registrar to be a true copy, shall be evidence of the contents of the Will, Codicil, or Instrument giving authority to adopt, of which it purports to be such copy.

Copies of Wills re-deposited to be furnished on payment of fees.

SPECIAL REGISTRATION OF OBLIGATIONS FOR PAYMENT OF MONEY.

LI. Whenever the parties to a bond or other written obligation for the payment of money, shall at the time of registering the same under the provisions of this Act apply to the District Registrar or Deputy Registrar to record their agreement, that in event of the bond or other written obligation as aforesaid not being satisfied within the time stipulated the amount may be recovered as hereinafter provided without a suit, it shall be the duty of the District Registrar or Deputy Registrar, after making such enquiries as he may think proper, to record such agreement at the foot of the endorsement required by Section XXXVI, and such record shall be signed by the District Registrar or Deputy Registrar, and by the parties to the bond or other written obligation as aforesaid.

Parties may have agreement recorded, that amount secured by a written obligation shall be recovered without suit.

LII. A bond or other obligation for the payment of money registered with such agreement as in the last preceding Section mentioned, may be enforced without a suit by any Court which would have had jurisdiction to try a suit on such bond or other obligation for the recovery of the amount, provided that the application for the enforcement of the same be made within the period of one year from the date on which the amount became payable. The bond or other obligation as aforesaid shall be enforced as a decree in a suit under the rules applicable to the execution of decrees in the Court in which the application for enforcement is made, but subject to any provisions contained in any law for the time being in force, in relation to

Obligations for the payment of money registered with such agreement may be enforced without suit.

the enforcement, without a suit of bonds or other obligations for the payment of money registered with such agreement as aforesaid. The application for the enforcement of a bond or other obligation for the payment of money under this Section shall be written on a Stamp paper of one-fourth the value prescribed for a petition of plaint, in a suit to recover the same amount, under the provisions of Article 11, Schedule B, Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), or any other law for the time being in force for regulating Stamp Duties.

REGISTRATION FEES.

Fees to be charged for registration, &c., how to be fixed.

LIII. Subject to the approval of the Governor-General of India in Council, the local Government shall prepare a table of fees payable for the registration of Instruments, for searching the Registers, and for making or granting copies of entries, abstracts or Instruments, either on registration or search. Subject to the like approval, the local Government shall also prepare a table of special additional fees payable for every registration by a Registrar General under Section XXVI, and for such other matters as shall to the local Government appear necessary. The local Government may from time to time subject to the like approval alter such table. A table of the fees so payable shall be published in the Official Gazette, and shall be exposed to public view in every Office established for the registration of Instruments, and no Instrument shall be accepted for registration, and no copy shall be granted, and no search shall be made or allowed until the fee duly prescribed in that behalf shall have been paid.

Disposal of Fees.

LIV. All fees received under the provisions of this Act (not being fees payable under Section XI of this Act to Officers who are paid wholly or in part by fees), shall be remitted to such Treasury as the local Government shall direct, and be credited to Government.

REGISTERS.

Books.

LV. The local Government shall provide for the Office of every Registrar General, District Registrar, and Deputy Registrar, such books as may be necessary for the purposes of this Act. The books so provided

shall contain such printed forms as shall from time to time be prescribed by the Registrar General, with the sanction of the local Government, for the entries to be made therein and for the indexes to such books, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the Officer by whom such books shall be supplied. The local Government shall further supply the Office of every District Registrar with a fire-proof box.

Forms.

Fire-proof boxes.

LVI. In every General Register Office, and in the Office of every District Registrar and Deputy Registrar, four Books shall be kept, which shall be entitled—

Four distinct Books.

1. Register of absolute transfers of immoveable property

2. Register of other transfers of immoveable property.

3. Register of decrees and orders of Court and of awards of arbitrations.

4. General Register of all other Instruments for the registration of which provision is made in this Act, and the entry of which is not required to be made in any other Register.

LVII. All entries made in such books shall be numbered in a consecutive numerical series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. Whenever any Instrument for the registration of which application may be made, refers to immoveable and also to moveable property it shall be entered in Book No. 4 and also in Book No. 1, 2, or 3, as the case may be.

In which book certain Instruments to be registered.

LVIII. Two Indexes shall be prepared for each Register, one containing the name of every party to every Instrument registered, and the other in the case of immoveable Property containing the name of the village or place where the property is situate, together with a description of the property and its name, and such other particulars and in such form as the Registrar General shall from time to time prescribe under Section LXIV.

Indexes.

Registers of Wills, &c.

LIX. Every District Registrar shall, in addition to the books prescribed in Section LVI of this Act, keep two books, to be entitled—

Register of deposits of Wills, and Codicils to Wills, and Instruments giving authority to adopt a son, as provided in Section XLVII.

Register of Wills, Codicils, and Instruments giving authority to adopt a son, as provided in Section XLIX.

Inspection of Registers and copies of entries.

LX. Subject to the previous payment of such fees as may be payable in that behalf, the Registers in the General Register Offices and in the Offices of all District Registrars and Deputy Registrars shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry in such Registers shall be given to all persons applying for such copies. Provided that the only Registers to be inspected shall be the Registers No. 1, 2, and 3, specified in Section LVI, and the Register specified in Section XLIX.

GENERAL RULES.

Control of proceedings of Deputy Registrars

LXI. Every Deputy Registrar shall perform the duties of his Office under the superintendence and control of the District Registrar in whose District the Office of such Deputy Registrar shall be situate; and the District Registrars shall have authority to issue (whether on complaint or otherwise) any orders they may consider necessary in respect of any proceeding or omission of any Deputy Registrar subordinate to them.

Revision of orders of Deputy Registrars refusing registration.

LXII. Every District Registrar may revise or alter any order of any Deputy Registrar subordinate to him, refusing to admit a document to registration, if an appeal against such order be presented to the District Registrar within thirty days from the date of the order, but not otherwise.

No appeal from order admitting to registration.

LXIII. No appeal shall lie to the District Registrar from an order of a Deputy Registrar admitting an Instrument to registration.

LXIV. The Registrar General shall exercise a general superintendence over all the Register Offices within the local limits of his jurisdiction, and shall have power from time to time to frame rules not inconsistent with the terms of this Act, for the guidance of the District Registrars and Deputy Registrars subordinate to him, for regulating the proceedings of these Officers, and for providing for the safe custody of books, papers, and Instruments, and also for the destruction of such books, papers, and Instruments as it may be deemed to be no longer necessary to keep. The rules so framed shall be submitted to the local Government for approval, and after they shall have been approved, they shall be published the in Official Gazette, and shall have the same force as if they were inserted in this Act.

General control by Registrar General.

Power to frame Rules.

LXV. The registration of all Instruments under this Act shall be made only at the Public Office of the Officer whose duty it shall be to register the same: but any District Registrar or Deputy Registrar may on special cause being shown attend at the place of residence of any party intending to execute any Instrument, or of any person desiring to deposit a Will, Codicil, or Authority to adopt a son. Every Deputy Registrar so attending shall within twenty-four hours report to the District Registrar to whom he is subordinate the fact of his having attended and his reason for so doing

Registration to be made at a Public Office.

Exception.

LXVI. Every District Registrar or Deputy Registrar who shall refuse to register an Instrument, and every District Registrar who shall refuse to order an Instrument to be registered, shall record his reasons for so refusing, and on application made by any party to the Instrument and on his furnishing a stamped paper of the value of eight annas, shall give him a copy of the reasons so recorded.

Reasons for refusal to register to be recorded by District Registrar or Deputy Registrar.

LXVII. A registered Instrument shall operate from the time from which it would have commenced to operate if no registration had been required or made, and not from the time of its registration.

Time from which registered Instrument shall operate

Priority of certain registered Instruments.

LXVIII. Every Instrument of the descriptions mentioned in Clauses 1 and 2 of Section XVI shall, if duly registered, have priority to any other Instrument relating to the same property, whether such other Instrument be of the same nature as the registered Instrument or not.

Registry of Instruments executed by, or on behalf of, Government.

LXIX. It shall not be necessary for any Officer of Government to appear in person for the purpose of registering any Instrument, but when any Instrument is executed by, or on behalf of, Government, or by any Court, Board, Commission, or Public Office on behalf of Government, the District Registrar or Deputy Registrar to whom such Instrument is presented for registration, may if he deem it necessary refer to the Head Officer of the Court, Board, Commission, or Office on whose behalf such Instrument was executed, for information respecting the same, and on being satisfied of the execution thereof shall register the Instrument.

False statements before any Officer acting under this Act how punishable.

LXX. If any person shall wilfully make any false statement in any deposition or declaration made by him before any Officer acting in execution of this Act, in any proceeding or enquiry under the provisions of this Act, he shall be deemed guilty of the offence of giving false evidence as defined in Section 191 of the Indian Penal Code.

Commencement of Act.

LXXI. This Act shall come into operation on the first day of January 1865 in the Presidencies of Bengal, Madras, and Bombay. This Act shall not come into operation in any other part of British India until it shall be extended thereto by an order of the Governor-General of India in Council, or by an order of the local Government, to be notified in the Official Gazette.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Reg. XXXVI. 1793 ...	Bengal Code	For establishing a registry for Wills and Deeds for the transfer or mortgage of real property ..	The whole Regulation.
Reg. XXVIII. 1795 ...	Bengal Code	For extending to the Province of Benares, Regulation XXXVI. 1793, entitled "A Regulation for establishing a registry for Wills and Deeds for the transfer or mortgage of real property" ...	The whole Regulation.
Regulation XVII. 1803	Bengal Code	For establishing a registry for Wills and Deeds for the transfer or mortgage of real property in the Provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company ...	The whole Regulation.
Regulation VIII. 1805	Bengal Code	For extending to the conquered Provinces situated within the Doab and on the right bank of the River Jumna, and to the Territory ceded to the Hon'ble the English East India Company in Bundlecund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Hon'ble the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations ...	Section XVII so far as it relates to Regulation XVII. 1803.

Number and date of Regulation.	What Code.	Title.	Extent of Repeal.
Regulation XII 1805...	Bengal Code	For the settlement and collection of the Public Revenue in the Zillah of Cuttack, including the Pergunnahs of Puttespore, Kummardi chour and Bograe, at present included in the Zillah of Midnapore ...	Section XXXII.
Regulation XX 1812...	Bengal Code	For modifying some of the provisions contained in the existing Regulations respecting the registry of Deeds, and for establishing a Register of engagements for the delivery of Indigo.	The whole Regulation.
Regulation IV. 1824...	Bengal Code	To provide more effectually for the Office of Register of Deeds ...	The whole Regulation.
Regulation VII. 1832...	Bengal Code	For modifying certain of the provisions of Regulation V 1831 and for providing Supplementary Rules to that enactment ...	Section IV.
Regulation XVII. 1802	Madras Code	For establishing a registry for Wills and Deeds for the transfer or mortgage of real property.	The whole Regulation.
Regulation XI 1831...	Madras Code	To provide more effectually for the Office of Register of Deeds ...	The whole Regulation.
Regulation IX. 1827...	Bombay Code	For establishing a Register of Title Deeds and a general Register of Deeds, Obligations, and other writings, in each Zillah subordinate to the Presidency of Bombay ...	The whole Regulation.
Regulation XIII 1828	Bombay Code	For enabling Assistant Judges, when expedient, to keep the Registers prescribed by Regulation II of 1827, when stationed in the Districts ...	The whole Regulation.

Number and date of Acts	Title.	Extent of Repeal.
Act XXX 1838 ...	... ...	The whole Act.
Act I. 1843 ...	For amending the Law concerning the registration of written Conveyances and other Instruments affecting titles and other interests to land ...	The whole Act.
Act XIX. 1843 ...	For amending the Law respecting the Registration of certain Deeds ..	The whole Act.
Act IV. 1845 ...	To amend the Law regarding the Registration of Deeds ...	The whole Act.
Act XVIII. 1847 ..	For curing the invalidity in the registration of Deeds arising from the fact of having been registered by persons not duly appointed or on other than Court days ...	The whole Act.
Act XI. 1851 ...	For the custody of Registers of Deeds in the Presidency of Bengal ..	The whole Act.
Act XXIX 1856 ...	Concerning the taking of Oaths of Office by Registers of Deeds ...	The whole Act.
Act III. 1859 ...	For conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds ...	Sections IX and X.

OFFICIAL TRUSTEE.

ACT No. XVII. OF 1864.

(*Received the assent of the G. G. on the* 24*th March* 1864.)

1. Interprets the words "High Court," "Chief Justice," "Person," and words of Number and Gender.

2. Repeals as regards the future Act XVII. of 1843.

3. Official Trustee under Act XVII., 1843, save as regards remuneration, to execute office under this Act.

4. Gives name of office to Official Trustee.

5—6. Vests the appointment, suspension, and removal of Official Trustee in Chief Justice of the Presidency; and (6) makes Administrator General eligible for office. Official Trustee to give security.

7. Empowers Chief Justice to give leave of absence to Official Trustee, and appoint an officiating Official Trustee, who is to give security.

8—11. Official Trustee may be made Trustee by Deed, and Trusts to vest in him and his successors: with (9) remuneration to be agreed by the Deed; and (10) may also be appointed on petition of the existing Trustees, or of *cestui que trusts* in specified cases; and (11) establishes the rates of remuneration.

12. Official Trustee to defray expenses of office establishment, and of management, collection and distribution, but to charge costs of litigation.

13. Official Trustee to be sole Trustee.

14. Directs in what way Trust Funds shall be invested.

15. Orders of High Court to be made on Petition, unless suit directed to be instituted.

16. Trust estate may be re-transferred to private Trustee by order of Court.

17. Orders on Official Trustee to be upon him by his name of office, and on his death, &c., all estates, &c., to vest in his successor.

18. All actions, &c., by or against to be in his official character.

19. Directs what accounts the Official Trustee shall keep.

20—21. Empowers Chief Justice to make, &c., General Rules and orders for safe custody of Trust Funds, &c., (21) to be published in Official Gazette.

22. Official Trustee to make annually a schedule of receipts, disbursements, &c., as directed by Chief Justice, which shall be filed as records of the High Court, &c.

23—25. Empowers Chief Justice to appoint Auditors; (24) to examine schedules, &c.; and (25) gives powers to Auditors.

26. Costs of schedules and audits to be rateably charged against all the estates.

27—29. Auditors to report to Chief Justice as to irregularity in accounts, &c., and (28) Chief Justice may refer report to Advocate General, who may proceed against defaulter, &c., and (29) Advocate General's costs to be charged to defaulter or against estate generally.

30—31. Orders of High Court to have effect of decrees; and (31) may be applied for by any person beneficially interested.

32. Legacy to infant or lunatic may be paid by executors to Official Trustee.

Preamble.

WHEREAS it is expedient to amend the law relating to Official Trustees, and to constitute an Office of Official Trustee; It is enacted as follows :—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the context repugnant to such construction, that is to say :—

"High Court."

The expression "High Court" shall mean Her Majesty's High Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay respectively in the exercise of their original Civil jurisdiction.

"Chief Justice."

The expression "Chief Justice" shall mean the Chief Justice or Acting Chief Justice for the time being of any of the said High Courts.

"Person."

The word "person" shall include a corporation.

Number.

Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Gender.

Words importing the masculine gender shall include females.

Act XVII of 1843 repealed.

II. Act XVII of 1843 (*for the appointment of Official Trustees in certain cases*) is hereby repealed except as to any proceedings pending or any Trusts now vested in an Official Trustee under it, and except in so far as that Act is made applicable to the Settlement of Prince of Wales' Island, Singapore, and Malacca, by Act XIV of 1852 (*for extending the provisions of Acts XXIV of* 1841 *and XVII of* 1843 *to the Straits' Settlement*).

III. Every Official Trustee appointed under the said Act XVII of 1843 shall, save as regards the remuneration to be received by him, hold and execute the Trusts of which he is Trustee in all respects as if he were an Official Trustee appointed under this Act.

Official Trustee under Act XVII of 1843 to act as if appointed under this Act, save as regards remuneration.

IV. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Official Trustee. The said Official Trustees shall be called the Official Trustee of Bengal, the Official Trustee of Madras, and the Official Trustee of Bombay respectively.

An Official Trustee to be appointed in each Presidency.

V. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his Office by the authorities hereinafter named, that is to say—

Appointment, suspension and removal of Official Trustees.

The Official Trustee of Bengal by the Chief Justice of Her Majesty's High Court of Judicature at Fort William in Bengal.

The Official Trustee of Madras by the Chief Justice of Her Majesty's High Court of Judicature at Fort St. George.

The Official Trustee of Bombay by the Chief Justice of Her Majesty's High Court of Judicature at Bombay.

VI. The Administrator General or Officiating Administrator General for the time being of any of the said Presidencies shall be eligible for the Office of Official Trustee of that Presidency. Every Official Trustee appointed under this Act shall give security for the due execution of the duties of his Office in such manner and to such amount as the Chief Justice by whom he is appointed shall direct.

Administrator General may be appointed Official Trustee.

Security to be given by Official Trustee.

VII. It shall be lawful for the Chief Justice of the High Court at any of the Presidencies, from time to time, to grant leave of absence to the Official Trustee of that Presidency, but subject always to such and the like rules as may be for the time being in force as to leave of absence of the Officers

Leave of absence of Official Trustee, and appointment of a person to officiate for him.

attached to such High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee, and such person while so officiating shall be subject to the same conditions and be bound by the same responsibilities as the Official Trustee, and he shall be deemed to be the Official Trustee for the time being under this Act, and shall be liable to give security for the due execution of the duties of his Office in like manner as if he had been appointed Official Trustee.

Official Trustee may, with his consent, be appointed Trustee of a settlement by grantor, &c.

VIII. If any person shall be about to grant, assign, or settle any property moveable or immoveable, of what nature or kindsoever, upon or subject to any Trust, whether for a charitable purpose or otherwise, it shall be lawful for such person, with the consent of the Official Trustee, to appoint him, by the deed creating the Trust, to be the Trustee of such settlement; and upon such appointment the property so granted, assigned, or settled shall vest in such Officer and his successors in Office, and shall be held by him and them upon the Trust declared and contained in the said deed. Provided always that the consent of the Official Trustee shall be recited in the said deed, and that the deed shall be duly executed by the Official Trustee: provided also that no Trust for any religious purpose shall ever be held by the Official Trustee, under this or under any other section of this Act.

Official Trustee appointed under last preceding Section, to receive only the remuneration specified in the deed.

IX. Every Official Trustee appointed Trustee of any property under the last preceding Section, shall be entitled to receive by way of remuneration in that behalf such sum or sums only as he shall by the deed of settlement be declared to be entitled to receive.

Under what other circumstances Official Trustee may be appointed Trustee of any property.

X. If any property is subject to a Trust, whether for a charitable purpose or otherwise, and there shall be no Trustee willing to act or capable of acting in the Trusts thereof, who is within the local limits of the ordinary or extraordinary original Civil jurisdiction of the High Court,

or if property is subject to a Trust, and all the Trustees, or the surviving or continuing Trustee and all the persons beneficially interested in the said Trust, shall be desirous that the Official Trustee shall be appointed in the room of such Trustees or Trustee, then and in any such case it shall be lawful for the High Court on petition, and with the consent of the Official Trustee, to appoint the Official Trustee to be the Trustee of such property: and upon such appointment such property shall vest in the Official Trustee and his successors in Office, and shall beheld by him and them upon the same Trusts as the same were held previous to such appointment.

Rate of commission under last preceding Section.

XI. The Official Trustee shall be entitled by way of remuneration, in respect of all Trust property transferred to him under the last preceding Section, to a commission the rate of which shall be as follows, that is to say,—

On all capital monies received by him, a commission of one half per cent. on receiving the same.

On all capital monies invested by him, a commission of one half per cent. on investing the same.

On all sums received by him by way of interest or dividends in respect of monies invested, a commission of three quarters per cent.

On all rents collected by him, a commission of two and a half per cent.

What expenses, &c., commission to cover.

XII. The Official Trustee shall defray all the expenses of the establishment necessary for his Office, including the provision of Office accommodation together with all other charges to which the said Office shall be subject, except those for which express provision is made by this Act, and except those costs of litigation and the like which a Trustee would, under ordinary circumstances, be entitled to pay for out of the Trust monies in his hand. The commission to which the Official Trustee shall be entitled, is intended to cover all the expenses and risk and responsibility of management, collection and distribution.

In all cases Official Trustee to be sole Trustee.

XIII. It shall in no case be lawful to appoint the Official Trustee to be a Trustee along with any other person: but the Official Trustee shall always be sole Trustee.

In what securities Official Trustee to invest Trust money.

XIV. The Official Trustee shall cause all capital monies received by him to be invested in Government securities, or otherwise as the Court shall direct: and if in any case the Trust funds or any part of them shall at the time of their vesting in the Official Trustee be invested otherwise than as provided in the deed or Will creating the Trust or than as ordered by the Court, it shall be the duty of the Official Trustee, as soon as he reasonably can, to realize the funds so improperly invested, and to invest the same in Government securities or otherwise as the Court shall direct.

High Court may make orders respecting Trust property vested in Official Trustee.

XV. The High Court may make any such orders as shall seem to it necessary respecting any Trust property vested in the Official Trustee, or the interest or produce thereof. All such orders shall be made on petition, unless the Court shall direct a suit to be instituted.

Re-transfer of Trust property to original, or transfer to other, Trustee.

XVI. Nothing in this Act shall prevent the re-transfer of any Trust property which may have become vested in the Official Trustee, to the original or any subsequently appointed Trustee, or to such person as the Court shall direct, unless otherwise provided by the deed or Will creating the Trust.

Order of appointment of Official Trustee.

XVII. All orders which shall be made appointing any Official Trustee to act as Trustee in virtue of his Office, shall appoint him by his name of Office and shall authorize the Official Trustee for the time being of the same Presidency to act as Official Trustee of the property to which such order shall relate: and all property and interests which at the time of the death, resignation, or removal from Office of any Official Trustee shall be vested in him by virtue of such order, shall upon such death,

On death, &c., of Official Trustee, property to vest in his successor.

resignation, or removal cease to be vested in him, and shall vest in his successor in Office immediately upon his appointment thereto, and all books, papers, and documents kept by such Official Trustee by virtue of his Office shall be transferred to and vested in his successor in Office.

Official Trustee to sue or be sued by his name of Office. Suit not to abate by death, &c.

XVII. All actions, suits, or other proceedings which shall be commenced by or against any Official Trustee in his official character, may be brought by or against him by his name of Office, and no suit, action, or other proceeding already commenced or which shall be commenced by or against any person as Official Trustee either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from Office of any such Official Trustee, but the same may by order of the Court and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing therein contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him, or shall release an Official Trustee who has resigned or been removed from his Office, or the heirs, executors, administrators, or representatives of a deceased Official Trustee from being liable for any such costs.

Proviso.

Official Trustee to keep a separate account of each Trust, to be open to the inspection of the Chief Justice, and of any person authorized by him to demand inspection.

XIX. Every Official Trustee appointed under this Act shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each Trust of which he is the Trustee, and of all such sums of money and securities for money, goods, and things, as shall come to his hands, or to the hands of any person employed by him, or in Trust for him, under this Act, and likewise of all payments made by him on account of such Trust, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall

be kept in the Official Trustee's Office, and shall be at all times open for the inspection of the Chief Justice and of any person authorized by him to demand inspection thereof.

Chief Justice may make and alter rules and orders for custody of Trust Funds, &c.

XX. The Chief Justice shall have power, from time to time, to make and alter any general rules and orders consistently with the provisions of this Act, for the safe custody of the Trust Funds and securities which shall come to the hands or possession of the Official Trustee, and for the remittance to Europe or elsewhere of all sums of money which shall be payable or belong to persons resident in Europe or elsewhere, or in other cases where such remittances shall be required, and generally for the guidance and government of the Official Trustee in the discharge of his duties; and may by such rules and orders, amongst other things, direct what books, accounts, and statements in addition to those mentioned in this Act, shall be kept by the Official Trustee, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the funds and securities and other the property belonging to the Trust of which the Official Trustee is the Trustee shall be kept or invested or deposited, and how any remittances thereof shall be made.

Publication of orders, &c.

XXI. Such orders shall be published in the Official Gazette, and it shall be the duty of the several Official Trustees to obey and fulfil the same, and the same shall be a full authority and idemnity for all persons acting in pursuance thereof.

Official Trustee to furnish Annual Schedules which shall be filed in the High Court.

XXII. The Official Trustee of each of the said Presidencies shall once in every year, that is to say, on the first day of March, or on such other day as the Chief Justice shall direct, deliver to the Chief Justice a true Schedule showing the gross amount of all sums of money received or paid by him on account of each Trust of which he is the Trustee, and the balances during the year ending on the thirty-first day of December next before the day of delivering such

Schedule, and a true list of all securities received on account of each of the said Trusts during the same period; and also a true Schedule of all Trusts which shall have come to an end or of which the Official Trustee shall have ceased to be the Trustee and the property subject to which shall have been paid or made over to the persons entitled to the same or to new Trustees during the same period, specifying the nature and amount or value of such property and the persons to whom paid or made over. The Chief Justice shall cause the said Schedules to be filed as record in the High Court; but it shall not be lawful for any person to inspect the same or to make copies thereof or of any part thereof, except on an order granted by the Chief Justice permitting him so to do.

Inspection of Schedules so filed.

XXIII. The Chief Justice shall from time to time appoint an Auditor or Auditors to examine the Accounts of the Official Trustee at the time of the delivery of the said Schedules and also at any other time when the Chief Justice shall think fit.

Chief Justice to appoint Auditors

XXIV. The Auditor or Auditors shall examine the Schedules and accounts, and report to the Chief Justice whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as aforesaid shall be directed to be kept by the Official Trustee, have been duly and regularly kept, and whether the Trust funds and securities have been duly kept and invested and deposited in the manner prescribed by this Act or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine Schedules and accounts of Official Trustee and to report to Chief Justice

XXV. Every Auditor shall have power to summon as well the Official Trustee as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Official Trustee or other party or parties, if he shall think fit, on oath or solemn affirm-

Auditors to have power to summon witnesses and to call for books, &c.

ation, to be by him administered; and to call for all books, papers, vouchers, and documents, which shall appear to him to be necessary for the purposes of the said reference; and if the Official Trustee or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher, or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the High Court; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said High Court.

Penalty for refusal or neglect to attend, &c., to produce books, &c.

XXVI. The costs and expenses of preparing the said Schedules and accounts and of every such reference and examination as aforesaid, shall be defrayed by all the Trust estates to which such Schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said Trust estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Chief Justice, and shall be paid out of the said estates accordingly by the Official Trustee.

Costs of preparing Schedules, &c, how to be paid.

XXVII. If upon any such reference and examination the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the Trust Funds and securities have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Official Trustee has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Chief Justice.

Matters to be reported by Auditors.

XXVIII. The Chief Justice may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency,

Proceedings upon such report.

who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the High Court by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the Trust estates then or formerly under the charge of such defaulter; and the Court shall have power, upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs upon such proceedings, &c., how to be defrayed.

XXIX. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the Trust estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Official Trustee or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the High Court to have same effect, and to be executed in the same manner, as decrees.

XXX. Any orders which shall be made by any of the said High Courts shall have the same effect and be executed in the same manner as decrees.

Who may apply for order under this Act.

XXXI. Any order under this Act may be made on the application of any person beneficially interested in any Trust property, or of any Trustee thereof, whether under disability or not.

Executor or Administrator may, by leave of the High Court, pay to Official Trustee, legacy, share, &c., to which an infant or lunatic is entitled.

XXXII. If any infant or lunatic shall be entitled to any gift or legacy or residue or share thereof, it shall be lawful for the Executor or Administrator by whom such legacy, residue, or share may be payable or transferable, or the party by whom such gift may be made, or any Trustee of such gift, legacy, residue, or

share, to pay or transfer the same to the Official Trustee appointed under this Act; provided that the leave of the High Court to make such payment or transfer shall be first obtained by motion made on petition. Any money or property paid or transferred to the Official Trustee or vested in him under this Section shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee under the provisions thereof.

MUNICIPAL.—LUCKNOW.

ACT No. XVIII. OF 1864.

(*Received the assent of the G. G on the 24th March* 1864).

1—2. Directs the appointment of a Municipal Committee for Lucknow, and (2) names the *ex-officio* members, and directs election of others.

3. Authorizes Chief Commissioner of Oudh to fix limits of City, and to define who shall be inhabitants, &c.

4—5. Authorizes Chief Commissioner to remove non-official members; and (5) to suspend or limit powers of Committee.

6. Commissioner of Lucknow to be President, Deputy Commissioner, Vice-President, and City Magistrate, Secretary.

7—9. Defines duties of Committee; and (8) authorizes Committee to contract; without (9) incurring personal liability, &c.

10—11. Committee to make annual statement of expenditure; and (11) of work done and money received and spent.

12. Directs how the Municipal Fund shall be composed.

13. Authorizes assessment of duties on consumables brought into the town.

14. Directs all monies received to be paid into Bank of Bengal to credit of Chief Commissioner.

15—18. Authorizes the Commissioner to make Bye-laws for specified objects; (16) subject to confirmation of Chief Commissioner; and (17) to be hung up in office in English and Hindostance; and (18) to be of same effect as if in Act.

19. Directs as to prosecutions and fines.

20. Chief Commissioner of Oude to be under control, &c., of Government of India.

21. Authorizes the Government of India to extend this Act to other places under its immediate administration; and (22) authorizes the chief authority of such place to establish a system of taxation, &c.

Preamble.

WHEREAS it is expedient to make provision for the appointment of a Municipal Committee for the City of Lucknow, and for levying duties on certain articles brought within the limits of the said City for consumption there, and generally for the regulation of all matters relating to the conservancy and improvement of the said City; It is enacted as follows:—

Appointment of Municipal Committee.

I. On and after such date as the Chief Commissioner of Oudh shall order, there shall be a Committee for the purposes of this Act, which shall be called "The Municipal Committee of the City of Lucknow." The said Committee shall consist of twenty-five Members, of whom six shall be *ex-officio* Members.

Ex-officio Members of the Committee.

II. The persons for the time being filling the following Offices shall respectively be *ex-officio* Members of the Municipal Committee. That is to say, the persons filling the Offices of—

Commissioner of Lucknow,
Deputy Commissioner of Lucknow,
Inspector General of Police in Oudh,
Civil Surgeon of Lucknow,
Executive Engineer of Lucknow,
City Magistrate of Lucknow.

Non-official Members to be elected annually.

The Non-official Members of the said Committee shall be elected annually by and from amongst the inhabitants of the City, and shall hold office for one year only, but shall be eligible for re-election.

Chief Commissioner to define limits of Lucknow, and to regulate the mode of election. Appointment of Non-official Members to be subject to his approval.

III. The Chief Commissioner of Oudh shall from time to time declare what shall be deemed to be the limits of the City of Lucknow for the purposes of this Act. He shall also declare who are, for the purposes of the last preceding Section, to be deemed inhabitants of the said City, and shall lay down rules fixing the time when the election of the Non-official Members of the Committees hall take place, and regulating the manner in which the elections shall be conducted. The appointment of every Non-official

Member shall be subject to the approval of the Chief Commissioner, and in the event of any person elected not being approved of by him, the inhabitants shall proceed forthwith to elect another person in his stead.

Chief Commissioner may remove Non-official Members.

IV. It shall be lawful for the Chief Commissioner to remove from office any Non-official Member of the Committee; and in the event of any such Member being so removed, it shall be in the discretion of the Chief Commissioner to determine whether or not any person shall be elected to supply his place for the unexpired portion of the year for which such Member was elected.

Powers of Committee how to be limited or suspended.

V. It shall be lawful for the Chief Commissioner at any time with the sanction of the Governor-General of India in Council to suspend or limit the powers or any of the powers of the Committee.

What officers to be President, Vice-President, and Secretary of the Committee.

VI. The Commissioner of Lucknow for the time being shall be the President of the Committee; the Deputy Commissioner of Lucknow shall be the Vice-President, and the City Magistrate of Lucknow shall be the Secretary.

Committee to do acts necessary for the conservancy and improvement of the City consistently with law.

VII. The Municipal Committee, so far as the funds at their disposal will permit, shall keep the streets, drains, and tanks of the City properly cleansed and repaired, and shall cause the said streets or such of them as may to them seem proper, to be lighted, and may construct new streets, drains, and tanks, and generally may do all acts and things necessary to the conservancy and improvement of the City so far as such acts and things be not repugnant to or inconsistent with the provisions of this or any other Law.

Into what contracts Committee may enter, and their mode of contracting.

VIII. It shall be lawful for the Municipal Committee from time to time to enter into all necessary contracts for the purposes of this Act. Such contracts, if in writing, shall be signed by the Secretary and at least three

Members of the Committee, and if any such contract be not reduced to writing, it shall be made with the Secretary. No contract made otherwise than as herein declared shall be in any way binding on the Committee, and no contract involving an expenditure of more than ten thousand Rupees shall be binding on the Committee unless made in writing and with the sanction of the Chief Commissioner of Oudh.

Members of the Committee not to be personally liable upon contracts made by the Committee.

IX. No Member of the Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee; but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts and expenses duly incurred as aforesaid. Every Member of the Committee shall be liable for any misapplication of any monies entrusted to the Committee, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and he shall be liable to be sued for the same in such Court as the Chief Commissioner of Oudh shall direct, as for money due to the Government of India.

Under what circumstance to be liable for the misapplication of money entrusted to the Committee.

Annual estimate of expenditure to be incurred during the year to be sent to Chief Commissioner.

X. The Committee shall each year, on or before such date prior to the first day of May as shall be fixed by the Chief Commissioner, furnish the Chief Commissioner with a statement or estimate (in such form as the Chief Commissioner shall direct) showing the expenditure which it is proposed by the Committee to incur during the year commencing on the first day of May then next, and the items in respect of which it is proposed to make such expenditure.

Accounts and statement of work done, receipts and expenditure, to be annually furnished to Chief Commissioner.

XI. The Committee shall, as soon as may be after the first day of May in each year, provide the Chief Commissioner with a statement in detail, of all the work done by them and of all sums received and of all sums expended by them during the year ending on the thirtieth day of April then next preceding, in such form as the Chief Commissioner shall from time to time direct.

Municipal Fund.

XII. All such monies as the Chief Commissioner or any other person shall from time to time make over to the Municipal Committee for the purposes of this Act and all fines levied under this Act shall form a Municipal Fund, of which the Committee shall be the Trustees, and which shall be applied by the Committee to the conservancy and improvement of the City of Lucknow, and to the payment of the salaries and wages of the Officers and servants employed by the Committee, and all other expenses incurred in or about the carrying out the provisions of this Act.

Duty to be levied on articles taken into Lucknow for consumption or use therein. Rates how to be fixed.

XIII. Duties on such things, and at such rates as the Chief Commissioner shall with the sanction of the Governor-General of India in Council from time to time declare, shall be levied in respect of the said things when brought into the City of Lucknow for consumption or use therein. The said duties shall be collected by such persons and in such manner as the Chief Commissioner shall direct. It shall be lawful for the Chief Commissioner to farm or let out the collection thereof for such period or periods as he shall think fit, but he shall in every case lay down rules as to the mode of levying and collecting the duties, and such rules shall have the like force and effect as Bye-laws duly made by the Committee.

Money received on account of duty to whom to be paid.

XIV. All monies received on account of the duties aforesaid, if the same be collected directly under the orders of the Chief Commissioner, and all monies received from the farming or letting out the collection of the duties, shall be paid into the Bank of Bengal to the credit of the Chief Commissioner. Out of the monies paid in under this Section, the Chief Commissioner shall (after defraying the costs of collection if any) make over to the Committee for the purposes of this Act such sum, not being less than one-third of the monies so paid in, as shall to the Chief Commissioner seem proper.

Power of Committee to make Bye-laws.

XV. The Municipal Committee may from time to time make such Bye-laws as they may think fit, for defining, prohibiting and removing

nuisances which are not public or common nuisances under the Indian Penal Code; for regulating the time and place of meeting of the Committee; the conduct of business at such meetings; the division of duties among the Members of the Committee; the appointment, suspension and removal of Officers and servants of the Committee, and fixing the salaries of such Officers and servants; for imposing penalties for the infringement of any Bye-law made by the Committee; and generally for the management of all matters connected with the conservancy and improvement of the City. The Committee may also from time to time repeal, alter, and amend any such Bye-laws. Provided that no Bye-law shall be repugnant to any law in force. Provided also that no penalty for the infringement of any such Bye-law shall exceed fifty Rupees, and that in case of a continuing infringement, no penalty shall exceed ten Rupees for every day after notice from the Committee of such infringement.

Bye-laws to be approved by Chief Commissioner.

XVI. No Bye-law or alteration of a Bye-law shall have effect until the same shall have been approved and confirmed by the Chief Commissioner, and shall have been duly published for such length of time and in such manner as the Chief Commissioner shall order.

Copies of Bye-laws to be exhibited in the office of the Committee.

XVII. A copy in the English and Hindoostanee languages, of every Bye-law and alteration of a Bye-law for the time being in force shall be painted on or affixed to boards, and such boards shall at all times be hung up in some conspicuous part of the office of the Committee.

Bye-laws to be of the same effect as if they were inserted in this Act.

XVIII. All Bye-laws, when the same shall have been duly confirmed and published shall, until the same be repealed or altered, be of the like effect as if they were inserted in this Act.

Before whom prosecutions to be instituted under this Act.

XIX. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and all fines imposed

may be recovered in the manner prescribed in Section 61 of the said Code. The amount of all fines realized shall be paid to the Municipal Committee and be applied by them to the purposes of this Act.

Control of Governor-General in Council in respect of this Act.

XX. The Chief Commissioner of Oudh shall, in every thing done under or relating to this Act, be subject to the orders and control of the Governor-General of India in Council.

This Act may be extended to any place under the immediate administration of the Government of India.

XXI. It shall be lawful for the Governor-General of India in Council to extend this Act to any place under the immediate administration of the Government of India. Whenever this Act shall be extended to any place under the provisions of this Section, it shall have effect in such place as if the name of such place were substituted throughout this Act for the name "Lucknow." The Governor-General of India in Council in extending this Act shall declare what and how many persons shall be ex-officio Members of the Municipal Committee of the place to which it is extended.

A system of taxation for such place may be established in lieu of provisions of Sections XIII and XIV of this Act.

XXXII. The Chief Commissioner of any place to which this Act shall be extended under the last preceding Section may, with the sanction of the Governor-General of India in Council, declare that Sections XIII and XIV or either of them, or any of the provisions of those Sections, shall be of no effect in such place, and may also with the like sanction define the persons or property within such place to be taxed for raising the monies necessary for the purposes of this Act, whether by house assessment or town duties or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them and ensuring the safety and due application of them when collected. Provided that no tax, duty, or other rate shall be levied under this Section in any place in which duties are levied under Section XIII of this Act.

Proviso.

NON-REGULATION DISTRICT.—MIRZAPORE.

ACT No. XIX OF 1864.

(Received the assent of the G. G. on the 24th March 1864.)

1—3. Makes places named in Schedule non-regulation; and (2) places them under direct administration of Government of North-Western Provinces; and (3) provides for settlement of question of boundary of district.

4 Act to take effect from time to be notified.

Schedule of places.

Preamble.

WHEREAS it is expedient to remove certain tracts of country in the District of Mirzapore from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Officers of that District under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from jurisdiction of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Officers of Revenue, constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor-General of India in Council: Provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

Administration of Justice and collection of Revenue, vested in Officers appointed by Lieutenant-Governor of the North-Western Provinces.

II. The administration of Civil and Criminal Justice and the superintendence of the settlement and realization of the Public Revenue, and all matters relating to rent within the said tracts are hereby vested in such Officer or Officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint, and the said Lieutenant-Governor may fix the periods within which appeals shall be preferred, provided that no sentence of death passed by any person competent under the appointment of the Lieute-

nant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court.

Question as to whether a place falls under this Act how to be settled.

III. When a question shall arise whether any place falls within the tracts described in the Schedule of this Act, it shall be competent to the Commissioner of the Division to determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

Commencement of operation of this Act.

IV. This Act shall take effect from such date as shall be fixed by the Lieutenant-Governor of the North-Western Provinces, and notification thereof shall be published in the Office of the Commissioner of the Division, and in the Courts of the Civil and Sessions Judge, and of the Magistrate of the District, and in such other manner as the Lieutenant-Governor may direct.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—

Pergunnah Agoree, Tuppahs Agoree Khas and South Kone.

Pergunnah Singrowlee, Tuppah British Singrowlee.

Pergunnah Bicheepore, Tuppahs Phoolwa Doodhee, and Burha.

MINORS.—BOMBAY.

ACT No. XX OF 1864.

(*Received the assent of the G. G. on the 24th March* 1864.)

1.—5. Vests the care of Minors (not being British subjects) and their property in Civil Court, but (2) persons entitled to administer their property may obtain certificate for administration from Civil Court, and relative &c., of Minor may apply to Civil Court to take charge of Minor or his property; the Civil Court (4) to be that of the District in which the Minor resides; (5) notice of such application to be given in manner prescribed

6.—7. Directs to whom certificate of administration shall be given, and (7) authorizes the Court to require report on character, &c., of applicant.

8—11. Directs appointment of curator of moveable property, &c., and (10) of guardian of person of Minor, with allowances, &c.; and (11) may appoint collector of property consisting in land, &c.

12. Authorizes the Court to require security from private administrator.

13. Authorizes the Court to order costs.

14. Directs what is to be done when one of several Minors is of full age.

15. Collector in charge to be under control of Revenue authorities.

16—17. Administrators to file inventory, and (17) to invest surplus funds in public securities.

18—20. Gives certificated administrators the same powers for collection and payment of debts, &c., as proprietors, but not to sell, &c.; and (19) makes him liable to be sued for amount, &c., and (20) such suit may be continued by party entrusted when his disqualification ceases.

21. Empowers Civil Court to recal certificate.

22. Empowers Civil Court to impose fine not exceeding 500 Rupees on administrators, &c., for neglect to account, &c.

23. Empowers Civil Court to permit private administrators to resign their trust, &c.

24. Authorizes the Civil Court to allow commission to curators and administrators.

25—28. Requires guardian to provide suitably for the education of male Minor; (26) subject to control of Civil Court, and (27) empowers the Court to cause education to be under private tutor, &c.; and (28) expenses to be defrayed out of estate.

29. Empowers guardian to pay expenses of marriage of Minor.

30. Minority to cease at 18.

31—32. Act not to authorize appointment of guardian of Female Minor if husband is not a Minor, &c.; nor (32) to apply to cases of lunatics, &c.

33. Orders under this Act to be appealable to High Court.

34. Interprets term "Civil Court," and saves powers of High Court, and enlarges sense of words of Number and Gender.

Preamble.

WHEREAS it is expedient to make better provision for the care of the persons and property of Minors in the Presidency of Bombay; It is enacted as follows:—

Care of persons and charge of property of Minors vested in the Civil Court.

I. The care of the persons of all Minors (not being European British subjects) and the charge of their property shall vest in the Civil Court.

II. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed or other instrument in writing, or by reason of nearness of kin or otherwise, may apply to the Civil Court for a Certificate of Administration; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge, until he shall have obtained such Certificate. Provided that when the property is of small value, not exceeding Rupees two hundred and fifty, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of Administration has not been granted to such relative.

What persons claiming to have charge of property in trust for a Minor may apply for Certificate of Administration.

No person to institute or defend a suit without such Certificate.

Proviso.

III. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.

IV. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

To what Court application to be made if property be situate in more than one District.

V. When application shall have been made to the Civil Court either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall inquire summarily into the circumstances, and pass orders in the case. Provided always that

Summary inquiry to be made by Court on application.

Proviso.

it shall be conpetent to the Civil Court to direct any Court subordinate to it to make such inquiry and report the result.

Certificate of Administration to whom to be granted.

VI. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed or other instrument in writing, and is willing to undertake the trust, the Court shall grant a Certificate of Administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also if it think fit (unless a Guardian have been appointed by the father), appoint such person as aforesaid, or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

Court may appoint person having such Certificate Guardian of Minor's person.

Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.

VII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor, who may be desirous or willing to be entrusted with the charge of his property or person, and it shall be incumbent on the Collector or Magistrate to furnish such report after making all due inquiry.

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the charge of property, &c., of Minor.

VIII. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed or other instrument in writing, and if there be no near relative willing and fit to be entrusted with the charge of the property or person of the Minor, and the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property or person, the Court shall proceed to make such provision in the manner hereinafter provided.

IX. If the estate of the Minor consists of moveable property or of houses, gardens, or the like, the Court shall grant a Certificate to the Public Curator appointed under Section XIX, Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), or if there be no Public Curator to any fit person whom the Court may select for the purpose.

If estate consists of moveable property, &c., Court may grant Certificate to Public Curator or other person.

X. Whenever the Court shall grant a Certificate of Administration to the estate of a Minor as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the Minor. The person to whom a Certificate of Administration has been granted, unless he be the Public Curator, or the legal heir of the Minor, or next in succession to the property, may be appointed Guardian. Provided that in the case of Minors who have inherited property by adoption, the natural father may be appointed Guardian. If the person appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance to be paid out of the estate of the Minor as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it may think proper for the maintenance of the Minor, surviving parent whether natural or adoptive, husband, wife and children, if any, and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

Appointment of Guardian.

Guardian's allowance.

Allowance for maintenance of Minor, &c.

XI. If the estate of the Minor consist in whole or in part of land or any interest in land, the Court may direct the Collector of the District in which the larger part of the same may be situated to take charge of the estate.

When the estate consists of land, Court may direct Collector to take charge of estate.

XII. The Civil Court may take such security as it shall think necessary, from any person to whom it may grant a Certificate of

Court may take Security.

Administration of the property of any Minor under this Act.

Proviso.

Provided always, that no such security shall be demanded from the Collector of a District or the Public Curator, when their services may be availed of.

Cost of inquiries under this Act.

XIII. In all inquiries and other proceedings held or had by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application such inquiry was made or proceeding had, or out of the estate of the Minor, or otherwise, as it may think proper.

Course to be followed when one or more of the proprietors of an estate placed under Collector's charge may come of age.

XIV. Whenever one or more of the proprietors of an estate which has been placed under the Collector's charge shall have passed his or their minority, the Collector shall represent the fact to the Civil Court, and the Court, unless it see sufficient reason to the contrary, may direct the Collector to retain charge of the shares of the property of the still disqualified proprietors during the continuance of their disqualification, or until it shall be otherwise ordered by the Court; or the Court may direct the whole estate to be made over to the management of the proprietor or proprietors who shall have become of age, with such directions as to the share or shares of the still disqualified proprietor or proprietors as to the Court shall seem fit and proper.

Proceedings of Collector subject to control of superior Revenue Authorities.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Public Curator, &c., to furnish inventory and annual accounts.

XVI. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X shall, within six months from the date of the Certificate, deliver in Court an inventory of all the immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the

same. And the Public Curator and every such other Administrator shall furnish annually within three months from the first of May of the Christian era an account of the property in his charge, exhibiting the amounts received, disbursed, and invested on account of the estate, and the balance in hand. If any relative or friend of a Minor, or any public Officer by petition to the Court shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator, and inquire summarily into the matter and make such order thereon as it shall think proper, or the Court, at its discretion, may refer such petition to any subordinate Court for investigation and report.

Proceeding if accuracy of inventory of account be impugned.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall by him be invested on account of the estate, from time to time, in the Public Securities.

Surplus funds to be invested by Public Curator, &c., in Public Securities on account of estate.

XVIII. Every person to whom a Certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell, alienate, mortgage, or otherwise incumber any immoveable property, or to grant a lease thereof for any period exceeding five years, without the sanction of the Civil Court previously obtained.

Powers of person to whom Certificate has been granted in the management of Minor's estate.

XIX. It shall be lawful for any relative or friend of a Minor at any time during the continuance of the minority to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person

Relative or friend may sue for an account.

after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit instituted under this Act after disqualification shall have ceased.

XX. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Revocation of Certificate.

XXI. The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a fresh Certificate to the Public Curator or any other person as the case may be, and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and account to such successor for all monies received and disbursed by him. The Court may also for any sufficient cause remove any Guardian appointed by the Court.

Removal of Guardian.

Penalty for neglect or refusal to deliver accounts or property.

XXII. The Civil Court may impose a fine not exceeding five hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to confinement in the Civil Jail until he shall consent to deliver such accounts or property.

Civil Court may permit resignation of trust, &c.

XXIII. The Civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any Guardian appointed by the Court, to resign his trust, and may give him a discharge therefrom on his accounting to

his successor duly appointed for all moneys received and disbursed by him and making over the property in his hands.

Remuneration of Public Curator, &c.

XXIV. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X shall be entitled to receive such commission not exceeding five percentum on the sums received and disbursed by him, or such other allowance to be paid out of the Minor's estate, as the Civil Court shall think fit.

Guardian of Minors under this Act to provide for their education.

XXV. Every Guardian appointed by the Civil Court under this Act who shall have charge of any male Minor shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court.

Civil Court may fix the residence and place of education of Minor.

XXVI. In the exercise of this superintendence and control, it shall be lawful for the Civil Court to direct that such Minor shall reside either with or without his Guardian at the Sudder Station of the District, or at any other place within the Presidency of Bombay, and shall attend for the purposes of education such School or College as to the said Civil Court may seem expedient, and to make such provision as may be necessary for the proper care and suitable maintenance of the said Minor whilst attending such School or College.

Or in certain cases cause Minor to be educated privately.

XXVII. If it shall appear to the Civil Court inexpedient to place any such Minor at School or College, it shall, if the proceeds of the estate are sufficient for that purpose, cause such Minor to be educated by a private tutor properly qualified, either at the family residence of such Minor or at the Sudder Station, or elsewhere within the Presidency of Bombay, and in that case also the Civil Court shall have power to determine, from time to time, the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

XXVIII. All charges and expenses which may be incurred on account of any male Minor under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the Civil Court.

Charges and expenses incurred under this Act for education, &c., to be paid out of the profits of Minor's estate.

XXIX. Every Guardian appointed under this Act who shall have charge of an unmarried Minor, shall pay all the necessary expenses of the marriage of such Minor out of the estate; provided that these expenses shall in no case, without the sanction of the Civil Court, involve the Minor's estate in debt.

Marriage of Minors.

XXX. For the purposes of this Act every person shall be held to be a Minor who has not attained the age of eighteen years.

Who to be held a Minor for the purposes of this Act.

XXXI. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the husband of the Minor, the Guardianship shall cease as soon as the husband shall attain the age of majority.

Act not to authorize the appointment of Guardians of certain married women.

Guardianship during the minority of the husband of Minor when to cease.

XXXII. Nothing in this Act shall be held to interfere with the provisions of Act XXXV of 1858 (*for making better provision for the care of the Estates of Lunatics*).

Act not to interfere with Act XXXV of 1858.

XXXIII. All orders passed by the Civil Court under this Act, shall be open to appeal to the High Court at Bombay, and shall be subject to all the

Orders of the Civil Court open to appeal.

provisions contained in Section 366 of the Code of Civil Procedure.

Construction of words "Civil Court"

XXXIV. The expression "Civil Court" as used in this Act, shall be held to mean the principal Court of original Civil Jurisdiction in the District, and shall not include the High Court of Judicature; and

Powers of High Court not to be affected

nothing contained in this Act shall be held to affect the powers of the High Court of Judicature over the person or property of any Minor subject to its jurisdiction.

Number.

Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number,

Gender.

and words importing the masculine gender shall include females.

POLICE MAGISTRATES.—CALCUTTA.

ACT No. XXI. OF 1864.

(Received the assent of the G. G. on the 1st April 1864.)

Recites expediency of enlarging summary powers of Police Magistrates in Calcutta.

1. Extends summary jurisdiction to offences under Chapter XIV. of I P. C., except Sections 250, 281, but punishment not to exceed six months rigorous imprisonment and fine 200 Rupees.

2. Extends to Calcutta Sections 62, 63, 308 to 314 of C C P

3. Authorizes Magistrate in such cases to issue Summons or Warrant without complaint before him.

4—6. Extends procedure of Act XIII 1856 to offences, &c, under this Act, and (5) Act to come into operation on 1st August 1864, and (6) may be extended by local Government to Madras and Bombay

Preamble.

WHEREAS it is expedient to empower the Magistrates of Police in Calcutta to punish summarily certain offences in addition to those which they are now empowered so to punish; It is enacted as follows:—

Persons guilty of certain offences may be tried summarily by a Magistrate of Police.

I. Every case in which any person is charged before a Magistrate of Police in Calcutta with having within the limits of the said Town, or within the limits of the Port of Calcutta as those limits are or may hereafter be defined under Act XXII of 1855 *(for the regulation of Ports and Port-dues)*, committed any offence under any of the provisions contained in Chapter XIV of the Indian Penal Code except Sections 280 and 281, may be heard and determined by such Magistrate in a summary way: and every such person shall on conviction by such Magistrate be punished in the manner provided by the Indian Penal Code for the punishment of the offence of which he shall be convicted. Provided that no Magistrate shall under this Act be competent to pass sentence in respect of any offence beyond the following limits, that is to say:—Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in cases in which both punishments are authorized by the Indian Penal Code. Provided also that the Magistrate may commit to the High Court for trial any such case which he may in his discretion think it proper so to commit.

Sections 62, 63, 308, 309, 310, 311, 312, 313 and 314 of the Code of Criminal Procedure extended to Calcutta.

II. Sections 62, 63, 308, 309, 310 311, 312, 313, and 314 of the Code of Criminal Procedure are hereby extended to and shall have operation within the town of Calcutta and within the limits of the Port of Calcutta defined as aforesaid, and the words "Magistrate" and "Magistrate of a District" as used in the said Sections shall denote any Magistrate of Police in Calcutta who may be authorized in that behalf by the local Government.

Magistrate may take cognizance of offences without complaint made.

III. Any Magistrate of Police in Calcutta authorized as aforesaid may without any complaint take cognizance of any offence which he has power to hear and dispose of in a summary manner, which may come to his knowledge, and he may issue a summons, or, in cases where a warrant may issue, a warrant

of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.

Procedure in such cases

IV. Save as in this Act otherwise provided the procedure contained in Act XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay*) as amended by Act XLVIII of 1860 (*to amend Act XIII of* 1856) shall be applicable to offences committed and charges made under this Act.

Commencement of Act

V. This Act shall come into operation on the first day of May 1864

Act may be extended by Governors in Council of Madras and Bombay.

VI. This Act may by an order of the Governor in Council of Fort St. George, or of the Governor in Council of Bombay respectively, to be published in the Official Gazette, be extended to the Towns and Ports of Madras and Bombay, and when so extended by such order, shall take effect in the Town and Port to which the order shall relate from the date of the publication of such order. When so extended to either the Town and Port of Madras, or the Town and Port of Bombay, this Act shall in all respects apply to such Town and Port as if the name of such Town and Port had appeared in this Act wherever the name of Calcutta appears.

BENGAL.—MILITARY CANTONMENTS.

ACT No. XXII. OF 1864.

(Received the assent of the G. G on the 1st April 1864.)

Recites expediency of making regulations for administration of justice and the Public Health in Military Cantonments

1—2 Interprets the words "British India," "Local Government," "Section," words of "Number" and "Gender;" and (2) repeals Scheduled Acts.

3—4. Appoints the name of Cantonment Magistrate, and requires him to proceed according to C. C. P; (4) as if he were a Divisional District Magistrate.

5 Appoints the name of Assistant Cantonment Magistrate, and defines his powers.

6—8. Authorizes the establishment of Small Cause Courts for Military Cantonments, the Judge to be the Chief Magistrate, but jurisdiction not to exceed 500 Rupees; and (7) Small Cause Court's Act to apply; and (8) to take the place of Military Courts of Requests.

9. Assistant Cantonment Magistrate may be invested with Small Cause Court powers to extent of Rs. 50.

10. Military Cantonment may be declared a sub-district for purposes of Act XVI., 1864, and Cantonment Magistrate may be Registrar.

11. Cantonment Police Force to be part of the General Police Force, and to be under Act V., 1861.

12. Government may extend Act V., 1861, Section 34, to Military Cantonments.

13. Entitles Cantonment Commanding Officer to send process to the Chief Police Officer of Cantonment for service, &c.

14—18. Empowers Government to extend Act XX., 1856, to Military Cantonment, &c.; and (15) to order the Cantonment to be divided; and (16) may prescribe rules for regulating expenditure, &c.; but (17) such rules not to be inconsistent with Act or law; and (18) no such rule to take effect until confirmed by Governor-General in Council.

19. Prescribes under 11 heads for what matters Rules may be made.

20. Breaches of the Rules to be triable by the Cantonment Magistrate, &c., who is in that respect to be independent of the District Magistrate, &c.

21—23. Makes penalties recoverable by distress and sale, and (22) in default of effects, offenders to be liable to one month's simple imprisonment; and (23) in the Civil Jail, and under Sections 19, 22, in the Criminal Jail.

24. Saves the liability of offenders to be proceeded against under general law.

25—26. Empowers Governor-General in Council to extend the Rules outside the Military Cantonment; and (26) in case of extension to provide for imposition of penalties.

27. All Courts to take judicial notice of Rules.

28. Rules made under this Act to supersede all existing rules and power to make new ones except under Act.

29—30. Provides penalty for illegal sale of spirits, &c., to or for European Soldier, &c.; and (30) for second offence makes spirit, &c., in possession of convict liable to confiscation.

31—33. Makes Camp Followers, &c., liable to penalties for having without permit more than specified quantities of spirits, &c.; and (32) offenders against Sections 30 and 31 to be liable to arrest, &c., without warrant; and (33) makes liquor in possession of convict under Sections 30, 31 liable to confiscation, &c.

34. Things seized under Section 32 may be detained until trial, and be restored or confiscated according to the event, &c.

35. Medicinal articles not within the foregoing provisions

36—37 Saves the powers of Courts Martial, &c, under Articles of War, and (37) legalizes retrospectively all acts in Military Cantonment done by orders of Government

38—39. Limits the Act to Bengal Presidency, but (39) it may be extended to places under the executive Government of the Government of India

40—42. Empowers the Governors of Madras, Bombay and the Punjab to extend the Act to their provinces respectively, and (41) gives same to Governors of N. W. Provinces and Bengal as to territories not within Bengal, (42) extension orders to be published in Official Gazette

43—45. Empowers the Governor-General in Council to provide for the exercise of powers and jurisdiction under this Act in Territories not subject to the General Regulations, or to the British Government, and (44) to declare what shall be the Court of appeal from Small Cause Courts in Military Cantonments; and (45) what authorities shall be Registrar, &c

46 Annuls antecedent Acts, &c., as respects Cantonments in Madras, Bombay and Punjab from time this Act comes into operation.

SCHEDULE of Regulations and Acts repealed.

Preamble.

WHEREAS it is expedient to make provision for regulating the administration of Civil and Criminal Justice and the superintendence of Police and Conservancy, for protecting the public health within the limits of Military Cantonments, and for laying down local Rules and Regulations to be enforced within such limits: It is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say:—

"British India."

The words "British India" denote the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "*An Act for the better Government of India*," except the settlement of Prince of Wales' Island, Singapore, and Malacca:

"Local Government."

The words "Local Government" denote the person or persons authorized by law to administer Executive Government in any part of British India:

"Section."

The word "Section" denotes a Section of this Act:

Number.

Words importing the singular number include the plural number, and words importing the plural number include the singular number:

Gender.

Words importing the masculine gender include females.

Act and parts of certain Regulations repealed.

II. The Act and the parts of the Regulations in the Schedule hereunto annexed set forth, are hereby repealed to the extent in the said Schedule declared.

Criminal jurisdiction of a Cantonment Magistrate.

III. When any person shall be invested by the local Government under the provisions of Section XXIII of the Code of Criminal Procedure, with the powers of a Magistrate within the limits of any Military Cantonment, such person shall be styled the Cantonment Magistrate, and within the limits of such Cantonment shall, subject to the control of the Magistrate of the District in which such Cantonment is situate, exercise the powers of a Magistrate as defined in the said Code, for the purpose of disposing of all cases arising within such Cantonment which the Magistrate of the District might dispose of, and for the commitment for trial before the Court of Session of the District or place in which such Cantonment is situate, of any person charged with any offence triable before the Court of Session, or for which the person charged shall appear to deserve a more severe sentence than a Magistrate is competent under the said Code of Criminal Procedure to award.

Cantonment Magistrate to be deemed a Magistrate in charge of a Division of a District.

IV. The Cantonment Magistrate shall be considered a Magistrate in charge of a Division of a District within the meaning and for the purposes of the Code of Criminal Procedure.

Assistant Cantonment Magistrates.

V. When any person shall be invested by the local Government under the provisions of Section XXIII of the Code of Criminal Procedure, with the powers of a subordinate Magistrate of the

1st or 2nd Class within the limits of any Military Cantonment, such person shall be styled the Assistant Cantonment Magistrate, and shall be subject to the Rules laid down for subordinate Magistrates in the said Code.

Small Cause Courts may be established in Cantonments.

VI. The local Government may within the limits of any Military Cantonment establish a Court of Small Causes for the trial of suits of the nature described in Section III of Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established within his jurisdiction. The local Government shall from time to time declare the pecuniary limit of the jurisdiction of every Court established under this Section, but such limit shall in no case exceed five hundred Rupees.

Act XLII of 1860 to apply to all such Courts.

VII. Every Court of Small Causes established under this Act shall be deemed to be a Court established under the said Act XLII of 1860, and all the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

Acts establishing Military Courts of Requests to cease to have effect in Cantonments where Cantonment Magistrates are appointed to be Small Cause Court Judges.

VIII. Whenever a Court of Small Causes is established in any Military Cantonment under the provisions of Section VI, the jurisdiction exercised in such Cantonment by any Officer under Act III of 1859 (*for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registrars of Deeds*) shall cease and determine, and so much of any Act as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall cease to have effect within the limits of such Cantonment.

IX. The local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court which is established under Section VI; provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty Rupees.

Assistant Cantonment Magistrate may be invested with powers of a Small Cause Court Judge in suits for an amount not exceeding fifty Rupees.

X. Any Military Cantonment may be declared by the local Government to be a Sub-District for the purposes of Act XVI of 1864 *(to provide for the Registration of Assurances)*. The Cantonment Magistrate of any Cantonment so declared shall be the Deputy Registrar thereof.

Cantonment may be declared a Sub-District under Act XVI of 1864.

XI. The Police Force employed in any Military Cantonment shall be deemed to be part of the General Police Force under the local Government in whose Territories such Cantonment is situate, within the meaning of Section II, Act V of 1861 *(for the Regulation of Police)*, and all the provisions of the said Act shall be applicable to such Force. The administration of the Police within the limits of any Cantonment in which there shall be a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the Commanding Officer of such Cantonment.

Act V of 1861 applicable to Police employed in Military Cantonments.

Administration of Police within Cantonments.

XII. The local Government may extend Section XXXIV of the said Act V of 1861 to any Military Cantonment situate in the Territories under such Government.

Extension of Section XXXIV, Act V of 1861, to Military Cantonments.

XIII. The Commanding Officer of a Cantonment may send any process requiring service or execution by any means not immediately at his disposal, to the Chief Police Officer in the Cantonment for service or execution through the Contonment Police, and it shall be the duty of the said

Service and execution, through Cantonment Magistrate, of process issued by Commanding Officer of a Cantonment.

Chief Police Officer to serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

Local Government may extend Act XX of 1856 to any Military Cantonment.

XIV. It shall be lawful for the local Government to extend the provisions of Act XX of 1856 (*to make better provision for the appointment and maintenance of Police Chowkedars in Cities, Towns, Stations, Suburbs, and Bazars in the Presidency of Fort William in Bengal*), to any Military Cantonment to which a Cantonment Magistrate may be appointed, and the Cantonment Magistrate of any Military Cantonment to which the said Act shall be so extended may exercise all the powers vested in a Magistrate by that Act subject only to the control of the Magistrate of the District and the local Government. If there be no Cantonment Magistrate, the Magistrate of the District shall carry out the provisions of the said Act when so extended as aforesaid.

And may order division of Cantonments, &c.

XV. It shall be lawful for the local Government to order that any Military Cantonment to which the provisions of the said Act XX of 1856 shall be extended be divided into any number of Cantonment divisions, and to determine the nature of the tax to be levied in each such division according to Section X of the said Act.

And may prescribe rules for regulating expenditure of funds raised.

XVI. The local Government may prescribe rules for regulating the expenditure for the general purposes of this Act, of any funds raised under the said Act XX of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the Rules and Regulations made under Section XVII of this Act in addition to or in lieu of the purposes described in Section XXXVI of the said Act XX of 1856.

And may make Rules and Regulations to provide for certain matters hereinafter mentioned: the same to be general or special.

XVII. The local Government shall have power to make Rules and Regulations not inconsistent with the provisions of this Act or of any other law in force, to provide within the limits of any Military Cantonment for the matters hereinafter mentioned, and from time

to time to repeal, or alter, such Rules and Regulation. The Rules and Regulations made under this Section may be general for all Military Cantonments in the Territories under the local Government making the same, or special for any one or more of such Cantonments, according as the local Government shall direct.

Rules and Regulations to be confirmed by Governor-General in Council.

XVIII. No Rule or Regulation made or altered under the last preceding Section shall have effect until the same shall have been confirmed by the Governor-General of India in Council. A copy of every such Rule and Regulation when so confirmed, in English and in the Vernacular language chiefly in use, shall be hung up in some conspicuous part of the Office of the Cantonment Magistrate, or in such other place as the local Government or the Commanding Officer may direct.

For what matters Rules and Regulations may provide.

XIX. The Rules and Regulations made under Section XVII may provide—

1*st.*—For regulating in cases in which the land within the limits of the Cantonment is the property of Government and the occupation and use of which by private persons is only permissive, the conditions under which occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed.

2*nd.*—For maintaining proper registers or immoveable property within the limits of the Cantonment, and for providing for the registration of transfers of such property.

3*rd.*—For regulating the manner in which houses within the limits of the Contonment shall be claimable for purchase or hire, when necessary, for the accommodation of Military Officers.

4*th*—For regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the Cantonment, or for carrying out any Rules and Regulations passed under this Section, and the appointment of the necessary servants and establishments.

5*th.*—For the definition and prohibition of public nuisances,

6*th*.—For the maintenance generally of the Cantonment in a proper sanitary condition; for the prevention and cure of disease; for the management and regulation of the public roads, of conservancy and drainage; for the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited; of slaughter houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations.

7*th*.—For inspecting and controlling houses of ill-fame and for preventing the spread of venereal disease.

8*th*.—For the supervision and regulation of public wells, tanks, springs of other sources from which water is or may be made available for public use.

9*th*.—For the execution and promotion of works of public utility and convenience.

10*th*.—For the registration of deaths, and for making and recording observations and facts important for the public health and interests.

11*th*.—For the imposition of penalties on persons convicted of the breach of any Rule or Regulation made under Section XVII, and for declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such Rules and Regulations, and the manner in which the investigation shall be conducted. Provided that no penalty so imposed shall exceed a fine of fifty Rupees, or imprisonment for eight days with or without labour.

Trial of breaches of Rules and Regulations.

XX. Breaches of any Rule or Regulation made under Section XVII shall be triable by the Cantonment Magistrate when there is such an Officer: but the local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate. The Magistrate of the District shall have no control over the Cantonment Magistrate, or over any Assistant Cantonment Magistrate, or any other person invested with such powers as herein aforesaid.

Amount of fine imposed how to be levied

XXI. In every case in which an offender is sentenced to a fine for the breach of any Rule or Regulation made under Section XVII, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the Cantonment.

Imprisonment in case of amount not being levied.

XXII. If no such property sufficient for the payment of the fine can be found, the offender shall be liable to be imprisoned without labour for any term not exceeding one month.

Place of imprisonment.

XXIII. The imprisonment under Section XIX or Section XXII may be, if without labour, in the Civil Jail; and if with labour, in the Criminal Jail of the District.

Prosecutions, &c., under other Regulations, &c., not barred by this Act.

XXIV. Nothing in this Act nor in any Rule or Regulation made under Section XVII shall prevent any person from being prosecuted under any other Regulation or Act for any offence punishable under this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

For protection of the health of the troops, Rules and Regulations made under the 7th Clause of Section XIX may be extended beyond limits of Cantonments.

XXV. Whenever it shall appear necessary for the protection of the health of the troops in any Military Cantonment, it shall be lawful for the Governor-General of India in Council to extend to any place outside the limits of such Military Cantonment and in the vicinity of such Cantonment, all or any of the Rules and Regulations made for such Cantonment under Clause 7 of Section XIX, and to make any additional Rules and Regulations under the said Clause, and to define the limits around such Cantonment within which such Rules and Regulations or additional Rules and Regulations shall be in force.

How penalties may be imposed and enforced for breach of Rules and Regulations in extended limits.

XXVI. When such Rules and Regulations, with any additional Rules or Regulations made as above, shall be extended under the last preceding Section to any place outside the limits of such Cantonment, it shall be lawful for the Governor-General of India in Council to provide in the manner described in Clause 11 of Section XIX for the imposition of penalties for the breach of such Rules and Regulations, and for prescribing the manner in which, and the persons by whom, breaches of such Rules and Regulations shall be inquired into or be cognizable.

Courts, &c., to take judicial notice of Rules and Regulations made under this Act.

XXVII. All Courts and Magistrates shall take judicial notice of all Rules and Regulations made under Section XVII or Section XXV.

Effects of Rules, &c., made under Section XVII of this Act in respect of Regulations, &c., previously in force.

XXVIII. Whenever in any Military Cantonment, Rules and Regulations have been made under Section XVII, so much of any Regulation or Act as may be held to empower the Commanding Officer to make local Regulations regarding matters other than Military shall cease to have any effect in such Cantonment, and all local Regulations for any Military Cantonment which may have been made before the promulgation of the Rules and Regulations for such Cantonment made under said Section XVII, shall cease to have any effect. Provided that nothing in this Section shall be held to interfere with any Military authority vested in the said Commanding Officer under the Articles of War.

Proviso.

Penalty for the unauthorized sale of spirituous liquor, &c., to certain persons in Cantonments.

XXIX. If within any Military Cantonment, or within any limits around such Cantonment prescribed by the local Government, any person not amenable to the Articles of War, or any Sutler, or Camp-Follower, shall knowingly barter, sell, or supply, or offer or attempt to barter, sell, or supply any spirituous liquor, wine, or intoxicating drug to, or for the use of any European Soldier, or to or for the use

of any European or Eurasian being a Camp-Follower or a Soldier's wife, without a written license from the Officer Commanding or from some person having sufficient authority from the Officer Commanding to grant such license, the person so bartering, selling, or supplying, or offering or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable on conviction to a fine not exceeding one hundred Rupees, or in the discretion of the Magistrate to imprisonment with or without hard labour, for any period not exceeding three months, or in lieu of such fine or imprisonment to the punishment of whipping, as prescribed for offences under Section II of Act VI of 1864 (*to authorize the punishment of whipping in certain cases*) subject to all the provisions of that Act.

Spirituous liquor, &c., to be confiscated in certain cases.

XXX. If any person convicted of an offence under the last preceding Section shall be again convicted of an offence under that Section, any spirituous liquor, wine, or intoxicating drug within such Cantonment or limits, which at the time of the commission of such subsequent offence shall belong to or be in the possession of such person, shall without further proof be deemed to be in the possession of such person for the purpose of being supplied to European Soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

Penalty on certain persons having in their possession within Cantonments more than a certain quantity of spirituous liquor, &c, without a permit.

XXXI. If any Camp-Follower or Military Pensioner, or the wife or the widow of any Soldier, Camp-Follower, or Military Pensioner shall, within such Cantonment or limits remove, convey, or have, in his or her possession any quantity of spirituous liquor or wine exceeding one seer or quart, without a permit to be signed by the Officer in Command, or such other Officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding fifty Rupees, and for any subsequent offence to a fine not exceeding one hundred Rupees, or to imprisonment with, or without hard labour, for any term not exceeding three calendar months:

provided that nothing in this Section contained shall apply to any liquor brought into a Cantonment for the private use of any Commissioned Officer.

Arrest of persons committing offence under Section XXX or XXXI and seizure of spirituous liquor, &c., in their possession.

XXXII. If any person subject to the provisions of this Act shall be found committing any offence contrary to Section XXX or Section XXXI of this Act, any Police Office may immediately without warrant arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other Officer having jurisdiction to punish the offender.

Confiscation of intoxicating liquor, &c., in respect of which there may be a conviction, or which may be in possession of the party convicted.

XXXIII. In case of a conviction for any offence under Section XXX or Section XXXI of this Act, the Cantonment Magistrate, or other Officer, may adjudge any liquor, wine, or intoxicating drug in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same or any part thereof, to be confiscated; and such Magistrate may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the Officer who shall have apprehended the offender, or seized any of the goods, adjudged to be confiscated.

Property seized under this Act may be detained until party charged with offence is convicted or acquitted.

XXXIV. Anything seized under Section XXXII in respect of which any person shall be charged with an offence, may be ordered to be detained until the person in whose possession the same shall have been seized shall be

convicted or acquitted of the offence charged. If the person shall be acquitted, any thing so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by the Cantonment Magistrate or other Officer to be confiscated, shall be restored: the remainder shall be dealt with as confiscated.

How to be disposed of.

XXXV. The foregoing Sections shall not apply to the sale or supply of any article for medicinal purposes, by recognized Medical Practitioners, Chemists, or Druggists.

Saving of articles sold or supplied for medicinal purposes.

XXXVI. Nothing in this Act shall interfere with the jurisdiction of Courts Martial, or of Commanding Officers of Cantonments or of Regiments, Corps, or Detachments under Act XXIX of 1861 (*to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army*), or under Act V of 1863 (*to amend Act XXIX of* 1861), or with the provisions of any Statute for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty in the East Indies, and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences.

Act not to interfere with jurisdiction of Courts Martial, &c.

Proviso.

Provided that when a Cantonment Magistrate or other Officer not being the Commanding Officer shall have been vested by the local Government with power within the limits of any Military Cantonment to dispose of cases under any Rule or Regulation made under Section XVII, it shall not be competent to the Commanding Officer to exercise the powers described in Article 84 of the said Act XXIX of 1861 in respect of any case arising under such Rule or Regulation, when such Rules and Regulations have been passed for such Cantonment under Section XVII, and penalties shall have been laid down for their intringement. The said Rules and Rugulations shall be held to be the Rules and Regulations mentioned in the said Article 84 of the said Act XXIX of 1861, and so much of the said Article as declares the penalties which may be inflicted for breach of Cantonment Regulations, shall cease from that time to have any effect in such Cantonment.

XXXVII. All Acts done previously to the passing of this Act by Cantonment Joint Magistrates, or by persons acting under their authority or otherwise in any Military Cantonment in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such Officers and persons as aforesaid are hereby indemnified and discharged from liability in respect of such Acts.

Certain Acts done by Cantonment Magistrates before the passing of this Act confirmed.

XXXVIII. This Act shall, save as hereinafter is provided, extend only to the Presidency of Fort William in Bengal.

Place of operation of this Act.

XXXIX. The provisions of this Act may be extended by order of the Governor-General of India in Council to any place under the immediate administration of the Government of India, and to any place in India but not in British India in which British Troops are cantoned.

Operation of this Act may be extended by order of the Governor-General in Council to certain other places.

XL. The provisions of this Act may be extended by order of the Governor of Madras in Council, or by order of the Governor of Bombay in Council, and by order of the Lieutenant-Governor of the Punjab to any part of the territories subject to their respective Governments.

To what places the operation of this Act may be extended by the Governments of Madras, Bombay or the Punjab.

XLI. The provisions of this Act may be extended by order of the Lieutenant-Governor of Bengal, or by order of the Lieutenant-Governor of the North-Western Provinces, to any part of the territories under their respective Governments not within the Presidency of Fort William in Bengal.

To what places the operation of this Act may be extended by the Government of Bengal, or of the North-Western Provinces.

XLII. Every order issued under Sections XXXIX, XL or XLI shall be published in the Official Gazette.

Publication of Orders extending the operation of this Act.

Authority to which commitments shall be made and appeals preferred if Cantonment be not situate in any district in which there is any person exercising the powers of a Court of Session.

XLIII. If in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, any person be invested with the powers of a Cantonment Magistrate within the limits of any Cantonment situated in any district or place in which there is no person exercising the powers of a Court of Session, the Governor-General of India in Council may direct to what authority the commitments shall be made and by what authority the appeals from the sentences and orders passed by such Cantonment Magistrate shall be heard and determined, and such commitments and appeals shall be heard and determined by such authority in the same manner as if the commitments had been made, or the sentences or orders appealed from had been passed, by a Magistrate within the jurisdiction of a Court of Session. The Governor-General of India in Council may also direct by what authority appeals from the sentences and orders passed in cases committed by such Cantonment Magistrate shall be heard and determined; and such appeals shall be heard and determined by such last mentioned authority in like manner as if the sentences and orders appealed from had been passed by a Court of Sessions.

In certain cases powers vested in the Sudder Court under Act XLII of 1860 to be exercised by such authority as the Governor-General in Council shall declare

XLIV. If a Court of Small Causes shall be established under Section VI in any Military Cantonment in the Territories not subject to the general Regulations, or in any part of India not subject to the British Government, the Governor-General of India in Council shall declare what authority shall exercise the powers vested in the Sudder Court by the provisions of the said Act XLII of 1860.

In certain cases for purposes of Registration under Act XVI of 1864, the Governor-General of India in Council to

XLV. If any Military Cantonment in any part of India not subject to the British Government shall be declared by the Governor-General of India in Council to be a Sub-District for the purposes of Registration under Act

declare what authorities to be deemed to be the District Registrar and the Registrar General.

XVI of 1864, the Governor-General of India in Council shall declare what authorities shall be deemed to be the District Registrar and the Registrar General respectively with reference to such Military Cantonment and the Deputy Registrar thereof.

Regulations and Acts inconsistent with this Act when to cease to have effect in Cantonments in Madras, Bombay, and the Punjab

XLVI. From the date on which any Cantonment Magistrate shall begin to exercise jurisdiction under this Act in any Cantonment in the Territories subject to the Government of Madras, or to the Government of Bombay, or to the Lieutenant-Governor of the Punjab, so much of the Regulations and Acts for the time being in force in such part of the said Territories as is in any way inconsistent with or repugnant to any of the provisions of this Act shall cease to have effect in such Cantonment.

SCHEDULE.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Reg. III. 1809 ...	Bengal Code	For the support of the Police in the Cantonments and Military Bazars; for defining the powers of the Civil and Military Officers in the performance of that duty; and for fixing the local limits of the said Cantonments and Bazars	Sections II & III.
Reg. XX. 1810...	Bengal Code	For subjecting persons attached to the Military Establishments to Martial Law in certain cases, and for the better Government of the retainers and dependants of the Army receiving public pay on fixed Establishments, and of persons seeking a livelihood by supplying the Troops in Garrison, Cantonment, and Station Military Bazars, or attached to Bazars of Corps . .	So much of Section XII as declares that the persons therein mentioned shall be liable to be tried by a Native Court Martial for the offence stated. Also Sections XIII, XIV, XV, XVI, XVII, XVIII, and XXI.

Number and date of Act.	Title.	Extent of Repeal.
Act XVIII of 1853.	For regulating the sale of spirituous liquors, &c., in Cantonments ...	The whole Act so far as it relates to the Bengal Presidency.

CUSTOMS DUTIES.

ACT No. XXIII. OF 1864.

(*Received the assent of the G. G. on the 7th April* 1864.)

1. Repeals Act XXVI., 1863; and (2) establishes new import duties.

Preamble.

WHEREAS it is expedient to amend the law relating to the Customs Duties; It is enacted as follows:—

Act XXVI of 1863 repealed.

I. From and after the passing of this Act, Act XXVI of 1863 (*to amend Act XI of* 1862, *to amend Act X of* 1860, *to amend Act VII of* 1859, *to alter the Duties of Customs on Goods imported or exported by Sea*) shall cease to have effect, except as to any act done or liability incurred.

Customs Duties to be levied as prescribed in this Section.

II. From and after the passing of this Act, in lieu of the Customs Duties authorized in Act XI of 1862 (*to amend Act X of* 1860, *to amend Act VII of* 1859, *to alter the Duties of Customs on Goods imported or exported by Sea*) to be charged on Iron; on Wines and Liqueurs; on Porter, Ale, Beer, Cider, and other similar fermented liquors and on Tobacco and on all articles not enumerated in the Schedule A annexed to the said Act XI of 1862, there shall be levied and collected, in conformity with the provisions of Act VI of 1863 (*the consolidated Customs Act*), the following Customs Duties; that is to say;—

On Iron (which shall not be taken to include ironmongery, cutlery, or hardware) ...	One per cent. *ad valorem*:
On Wines and Liqueurs	One Rupee the Imperial gallon:
On Porter, Ale, Beer, Cider and other similar fermented liquors	One Anna the Imperial gallon:
On Tobacco whether manufactured or not manufactured	Ten per cent. *ad valorem*:
On all other Articles not enumerated in this Act or in the Schedule A annexed to the said Act XI of 1862	Seven and a half per cent. *ad valorem*.

JHANSI, JALOUN, LULLUTPORE, KUMAON, AND JOUNSAR BAWUR.

ACT No. XXIV. OF 1864.

(*Received the assent of the G. G. on the 8th April* 1864.)

1—3. Legalizes retrospectively proceedings under recited rules, notwithstanding specified defects in the Rules.

4—7. Proceedings in Civil Court to follow Code of Civil Procedure; and (5) suits to be brought in lowest Court competent to try; but (6) Commissioner, &c, may withdraw suit from subordinate Court and try it, &c; and (7) as to suits for immoveable property in different districts.

8. From what time right of appeal is to run.

9. Extends Act XIV., 1859, to Jhansi, &c.

10—13. Empowers N. W. Government to extend Acts, &c., to Jhansi, &c.; and (11) to declare in what officer, &c., the Civil, Criminal and Revenue administration in Jounsar Bawur of Dehra Dhoon shall be vested, and (12) prescribes what rules such officer shall follow; but Code of Civil Procedure may be extended to that tract

14. Saves the operation of the I. P C.

15. Act to come into operation 1st May 1864.

Preamble.

WHEREAS certain Rules for the administration of Civil Justice and for the superintendence of the settlement and of the realization of the Public Revenue and of matters relating to rent in the Districts of Jhansi, Jaloun, and Lullutpore, were made by the Lieutenant-Governor of the North-Western Provinces, and came into operation on the twenty-eighth day of January and the seventh day of February 1862: and whereas the said Rules, so far as they relate to the administration of Civil Justice were afterwards extended by an order of the Lieutenant-Governor of the North-Western Provinces to the Provinces of Kumaon and Gurhwal: and whereas it is expedient to prevent the validity of decisions, orders, and proceedings passed or held under the said Rules being questioned only by reason that the said Rules were not made in accordance with the provisions of the Indian Councils' Act 1861: and whereas it is expedient, to make provision for the administration of the Districts and Provinces aforesaid and also of a tract of country in Dehra Dhoon in the North-Western Provinces known as Jounsar Bawur; It is enacted as follows:—

Rules relating to jurisdiction and procedure of Revenue Officers, &c., to be deemed valid from date of issue.

I. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces relating to the jurisdiction and procedure of the Revenue Officers, and for the superintendence of the settlement and of the realization of the Public Revenue, and of matters relating to rent, within the said Districts of Jhansi, Jaloun and Lullutpore, shall be deemed valid for all purposes from the date on which such Rules were issued.

Rules relating to the administration of Civil Justice to be deemed valid from date of issue until the coming into operation of this Act, and in part to continue of effect after such period.

II. The Rules made as aforesaid by the Lieutenant-Governor of the North-Western Provinces for the administration of Civil Justice within the said Districts, and thereafter extended to the Provinces of Kumaon and Gurhwal as aforesaid, shall be deemed valid for all purposes from the date on which they were issued until this Act shall come into operation. So much of the said Rules as relates to the establishment of Courts of Civil Judicature, and provides for the trial of suits and appeals by Commissioners, Deputy-Commissioners of Districts, Assistant Commissioners, Extra Assistant Commissioners, and Tehsildars, together with so much of the said Rules as relates to the periods of appeal from decisions and orders made by such Courts, shall continue to be in force after this Act shall have come into operation.

Validity given to all decisions, &c., before the coming into operation of this Act.

III. No decision, order, or proceeding of any Court or Officer under any of the said Rules, made and extended as aforesaid by the Lieutenant-Governor of the North-Western Provinces, shall be questioned on the ground of such order, or decision, having been passed, or of such proceeding having been held, before the date fixed for this Act to come into operation.

Proceedings in Civil suits how to be regulated.

IV. Except as in this Act is otherwise provided, the proceedings in Civil suits of every description between party and party, brought in the said Courts of Civil Judicature, shall be regulated by the Code of Civil Procedure.

In what Courts suits to be instituted.

V. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Power of Commissioner and Deputy Commissioner as to suits instituted in any subordinate Court.

VI. It shall be lawful for the Commissioner or for the Deputy Commissioner of a District to withdraw any suit instituted in any Court subordinate to the Court of such Commissioner or Deputy Commissioner, and to try such suit himself, or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same.

Trial of suits for immoveable property situate within the jurisdiction of different Courts.

VII. If the suit be for land or other immoveable property situate within the local limits of the jurisdiction of different Courts, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of the land, or other immoveable property, in suit is situate; but in such case the Court in which the suit is brought shall apply to the Deputy Commissioner of the District if the suit is brought in any Court subordinate to the Deputy Commissioner, or to the Commissioner if the Court in which the suit is brought is the Court of a Deputy Commissioner, for authority to proceed with the same.

Periods of appeal how to be reckoned.

VIII. The periods of regular and special appeal prescribed in the Rules, which by Section II of this Act are to continue in force after this Act shall have come into operation, shall be reckoned from and exclusive of the day on which the judgment appealed against shall have been pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeals are allowed by the Code of Civil Procedure, shall be presented within the same period as appeals from decrees.

Act XIV of 1859 extended to certain districts and provinces.

IX. Act XIV of 1859 (*to provide for the limitation of suits*) is hereby extended to the said Districts of Jhansi, Jaloun and Lullutpore, and to the said Provinces of Kumaon and

Gurhwal, and shall take effect therein from the date on which this Act comes into operation, subject to the provision contained in Section XXIV of the said Act XIV of 1859, as regards pending suits instituted within two years from the date above mentioned.

Operation of Regulations and Acts may be extended to the same districts and provinces, &c.

X. It shall be lawful for the Lieutenant-Governor of the North-Western Provinces by notification in the Official Gazette, to extend to the said Districts and Provinces the operation of any Regulation or Act now in force in the Districts, under his Government, which are subject to the General Regulations, and to declare in whom any authority to be exercised under any Regulation or Act so extended shall be vested.

Administration of justice and collection of Revenue in tract known as Jounsar Bawur in whom to be vested.

XI. The administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the Public Revenue, and of all matters relating to rent, within the tract of country in the Dehra Dhoon called Jounsar Bawur, are hereby vested in such Officer or Officers as the Lieutenant-Governor of the North-Western Provinces may, for the purpose of tribunals of first instance or of reference and appeal, appoint.

Rules for administration.

XII. The Officer or Officers so appointed shall be guided by the Rules made before the date fixed for this Act to come into operation by the Lieutenant-Governor of the North-Western Provinces under the authority of Act XIV of 1861 (*to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the tribunals established under the General Regulations and Acts*), for the guidance of the Officers appointed to administer the tracts of country described in the said Act.

Code of Civil Procedure may be extended to certain tracts.

XIII. The Lieutenant-Governor of the North-Western Provinces may, by notification in the Official Gazette, extend the Code of Civil Procedure to the said tract of country known as Jounsar Bawur and the tracts of country described in the said Act XIV of 1861.

Such tracts not to be held excluded by this Act or Act XIV of 1861 from the operation of the Indian Penal Code.

XIV. Nothing in this Act, or in the said Act XIV of 1861 shall be held to exclude the said tract of country known as Jounsar Bawur, or the tracts of country described in the said Act XIV of 1861, from the operation of the Indian Penal Code.

Operation of Act.

XV. This Act shall come into operation on the first day of May 1864.

MARRIAGE LAW OF CHRISTIANS.

ACT No. XXV. OF 1864.

(*Received the assent of the G. G. on the 9th April* 1864).

1—2. No person professing the Christian religion to be married except according to this Act; that is, (2) by Christian Ministers, Scotch Church Clergymen or Marriage Registrars, Ministers licensed to marry, or certificated persons.

3—5. Repeals the declaration at present required on marriage; and (4) authorizes the issue to Ministers of license to solemnize marriage; and (5) where licenses have been issued all marriages other than by this Act to be void.

6. Saves marriages prior to 1st July 1864 from consequences of specified defects.

7—14. Prescribes notice of intended marriage to the marrying Officers stating specified particulars; such notice (8) to be published by such Officer, and how and where; and (9) how when marriage is not to be in private dwelling; and (10) what he is to do with this notice when it is for marriage of a minor; and (11) what the Marriage Registrar or (12) the Senior Marriage Registrar is to do with it in such case; and (13) such notice to be certified before marriage is performed; such certificate (14) to be postponed if one party is a minor, &c.

15. Before certificate is issued, one of the parties to appear before Minister and make declaration, &c.

16—18. Makes consent of father or guardian to marriage of minor necessary, and (17) such father, &c., may prohibit the marriage, and how; and (18) after prohibition, marriage not to be made till after investigation, &c.

19—22. Directs what is to be done by Minister on application of Native Christian for a certificate, and (20) prescribes form of certificate; and (21) permits marriage in presence of two witnesses after certificate issued; but (22) such certificate to remain in force only two months; after which, new certificate necessary.

23. Saves from operation of these regulations marriage by Minister according to Part I. of this Act.

PART III.

24. Marriage ceremony to be performed between 6 A. M. and 7 P. M., except when under special license.

PART IV.

25—29. Enjoins registration of marriages, except those under the Act of Parliament or Act V., 1852; but registration not necessary to validity of marriage; and (26) prescribes the form of registration when marriage is by Church of England Clergyman; and (27) prescribes quarterly returns to the Archdeaconry Registrar, and (28) same returns when marriage is by Church of Scotland Clergyman; and (29) the mode of registering in other cases.

30. Marriage Register book to be signed by parties and witnesses.

31—33. Certificate of marriage to be sent to Marriage Registrar to be copied in a book; and (32) directs how such copies are to be entered; and (33) what additions are to be made by Registrar.

34—35. Provides for the custody and disposal of Register book; and (35) for the transmission of specified entries to Secretary of State for India.

36. Provides for the correction of errors.

37. Provides for making searches.

38. Provides respecting fees.

39. Makes certified copy of entry of marriage proof of the facts.

40. Saves from operation of this part of the Act marriages under English Act and Act V., 1852.

PART V. Makes exceptional regulations as to marriage of certain Native Christians.

41—43. Empowers the local Governments to issue license to issue certificates of marriage for Native Christians to whom Act V., 1852, and the English Act are not suitable; and (42) dispenses with certain requirements of this Act, and establishes the conditions under which such marriages may be made; and (43) entitles the parties to marriage certificate.

44—45. Local Government may revoke license; (45) such revocation to be gazetted.

46. Makes valid all marriages under Section 42.

47—48. Prescribes a register book under these provisions; and (48) authorizes searches to be made.

PART VI. *As to Penalties.*

49—57. Extends Penal Code to false oath, declaration, notice or certificate under this Act; and (50) for specified false representation; and (51) for unauthorized person performing marriage ceremony; and (52) for performing ceremony out of legal hours, &c.; and (53) for marrying minor after notice; and (54) for Registrars issuing certificates, &c., without publication of notice; and (55) for persons not being Church of England or Scotland

Clergymen marrying without publication of notice, &c., and (56) for unlicensed persons granting pretended certificates; and (57) for inserting false entries in Register Book.

58—59. Gives jurisdiction to try offences against this Act to Court Session, and in case of European British subjects to the High Courts, &c; and except as to these (59) the procedure to be according to the Code of Criminal Procedure. All offences under this Act to be bailable.

60. Interprets the words "Church of England," "Church of Scotland."

61. Act to come into operation 1st July 1864.

Schedule A. Notice of Marriage. B. Registrar's Certificate. C. Form of Register of Marriage. D. Form of Register Book.

Preamble.

WHEREAS it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:-

PART I.

As to the persons by whom Marriage may be solemnized.

Marriage between persons professing the Christian Religion to be solemnized according to the provisions of this Act.

I. From and after the first day of July 1864 no marriage between persons, one of whom is a person, or both of whom are persons, professing the Christian Religion, shall be solemnized, except in accordance with the provisions hereafter stated in this Act.

By whom to be solemnized.

II. Marriages may be solemnized in India—

1st.—By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs, of the Church of which such person is a Minister.

2nd.—By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs, of the Church of Scotland.

3rd.—By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap 40, or of Act V of 1852 (*for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty entituled an Act for Marriages in India*) of the Governor-General of India in Council.

4th.—By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages

5th.—By any person who, with respect to marriages between Native Christians, shall have received under the provisions of Part V of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

III. From and after the first day of July 1864, the declaration and certificate required by the Statute 58, Geo. III, cap. 84, and Act XXIV of 1860 (*for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland*) of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

IV. From and after the first day of July 1864, the Governor-General of India in Council, the Governors of Madras and Bombay in Council, and the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the territories subject to such Governor-General, Governors, and Lieutenant-Governors respectively.

Marriages solemnized otherwise than according to this Act to be void.

V. From and after the first day of July 1864, all marriages solemnized in India otherwise than in accordance with the provisions of Sections I and II of this Act, shall be null and void.

Marriages already solemnized by certain persons to be deemed valid.

VI. All marriages solemnized in India before the first day of July 1864 by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, if not otherwise invalid, shall be deemed valid, to all intents and purposes.

PART II.

As to the mode of solemnizing Marriages under this Act.

Notice of intended marriage to whom to be given. Form of notice.

VII. In every case of intended marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, otherwise than—

1st.—Under the provisions of the Statute 14 and 15 Vic., cap. 40, or of the said Act V of 1852 of the Governor-General of India in Council: or

2nd.—By a Clergyman of the Church of England according to the rites, rules, ceremonies, and customs, of that Church: or

3rd.—By a Clergyman of the Church of Scotland according to the rites, rules, ceremonies, and customs, of that Church: or

4th.—By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of part V of this Act—

One of the parties shall give notice in writing according to the form prescribed by the Schedule (A) to this Act annexed or to the like effect, to the Minister of Religion whom he shall desire to solemnize the said marriage, and shall state therein the name or names, and the profession or condition, of each of the parties intending marriage, the dwelling place of each of them and the time (not being less than four days) during which each has dwelt there, and the Church, Chapel, or other place of, or generally used for, public worship, or the private dwelling in which the marriage is to be solemnized.

Proviso.

Provided that if either party shall have dwelt in the place stated in the notice during more than one calendar month, it may be stated therein, that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church or Chapel, or other building generally used for public worship, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, or Chapel, or other building generally used for public worship, unless he has received a special license authorizing him to do so from and under the hand and seal of the Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the Bishop of the Diocese may sanction.

Publication of such notice.

VIII. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church, Chapel, or place

of, or generally used for, public worship in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the said Church, Chapel, or place of, or generally used for, public worship in which it is intended that the said marriage shall be solemnized. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, or Chapel, or place of, or generally used for, public worship, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate in such place of worship, who shall thereupon cause the same to be so published and affixed in the said Church, Chapel, or place of, or generally used for, public worship.

Notice of intended marriage in private dwelling.

IX. If it be intended that the marriage shall be solemnized not in a Church, Chapel, or other place of, or generally used for, public worship, but in a private dwelling, the Minister of Religion receiving the notice prescribed in Section VII shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the parties intending marriage is under twenty-one years of age.

X. When one of the parties intending marriage (not being a widow or widower) is under twenty-one years of age, every Minister as aforesaid who shall receive such notice, and who shall not forthwith return such notice to the party delivering the same under Section VIII shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice

XI. The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

XII. If there be more Marriage Registrars than one in any District, the local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent

to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, send or cause to be sent a copy of such notice to all the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, Chapels, or places of worship as aforesaid.

Issue of certificate of notice given and declaration made.

XIII. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid on being required so to do by or on behalf of the party by whom the notice was given and upon one of the parties intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made.

Proviso.

Provided no lawful impediment according to the law of England be shown to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

Certificate in certain cases not to issue until fourteen days after receipt of notice.

XIV. When by such declaration it appears, or when it is otherwise known to such Minister of Religion, that one of the parties intending marriage not being a widower or widow, is under twenty-one years of age, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Declaration to be made before issue of certificate.

XV. Before any such certificate as aforesaid shall be issued by any such Minister, one of the parties intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or each of the parties, not being a widower or widow, is under the age of twenty-one years, that the consent of the person whose consent to such marriage is required by law has been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

Consent of parent or guardian when necessary.

XVI. The father, if living, of any party under twenty-one years of age, such party not being a widower or widow, or if the father be dead the guardian or guardians of the person of the party so under age lawfully appointed, or one of them, and in case there be no such guardian then the mother of such party, shall have authority to give consent to the marriage of such party, and such consent is hereby required for the marriage of such party so under age, unless there be no person authorized to give such consent resident in India.

What persons may prohibit issue of certificate by notice.

XVII. Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person authorized as aforesaid, with his name and place of abode, and his or her character in respect of either of the parties, by reason of which he or she is so authorized.

Minister how to proceed on receipt of such notice, &c.

XVIII. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate, and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the said marriage is not authorized by law so to do, or until the notice of the said prohibition be withdrawn by the person who gave the same.

Proceedings before issue of certificate in the case of Native Christians.

XIX. When any Native Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, and if not, shall translate or cause to be translated the said notice or certificate to such Native Christian in the language of such Native Christian, or in some language which he understands.

XX. The certificate to be issued by such Minister as aforesaid, may be in the form prescribed by the Schedule (B) to this Act annexed, or to the like effect.

Form of certificate.

XXI. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between and by the parties therein described according to such form or ceremony as such Minister shall see fit to adopt. Provided that it be solemnized in the presence of at least two witnesses.

After issue of certificate, marriage may be solemnized.

XXII. Whenever a marriage is not solemnized within two calendar months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and certificate thereof issued in the manner aforesaid.

Certificate to be void if marriage be not solemnized within two months.

XXIII. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the parties, or of the consent of any person whose consent is thereunto required by law, or of the notice of marriage, or of the certificate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

Proof of marriage in accordance with the provisions of Part I of this Act.

PART III.

Time for solemnizing Marriages.

XXIV. Every marriage solemnized in India from and after the first day of July 1864, by any person who has received episcopal ordination, or by any Clergyman of the Church of Scot-

Hours between which marriages to be solemnized.

land, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening. But the provisions of this Section shall not apply to a Clergyman solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Bishop of the Diocese or from his Commissary. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the Bishop of the Diocese may sanction.

Proviso.

PART IV.

As to the Registration of Marriages in India.

Marriages with certain exceptions to be registered as hereinafter prescribed.

XXV. All marriages solemnized in India from and after the first day of July 1864, between persons both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 of the Governor-General of India in Council, shall be registered in the manner hereinafter prescribed. Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Proviso.

Registration of marriages solemnized by Clergyman of the Church of England.

XXVI. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule (C) to this Act annexed

Quarterly returns to Archdeaconry.

XXVII. Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of

the Archdeaconry to which he shall be subject, or within the limits of which such Station or District shall be situated. Such quarterly returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Government at the Presidency in which such Archdeaconry shall be.

Registration and returns of marriages by Clergyman of the Church of Scotland.

XXVIII. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in Section XXVI for marriages solemnized by Clergyman of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of such Church, returns similar to those prescribed in the preceding Section for Clergymen of the Church of England, of all marriages solemnized by him

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

XXIX. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate:—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form prescribed by the Schedule (D) to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

XXX. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the parties married, and shall be attested by two witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such entries to be signed and attested

XXXI. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one calendar month from the time of the solemnization of the said marriage to the Marriage Registrar of the District in which such marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall cause the same to be copied into a book to be kept by him for that purpose, and shall transmit all the said certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Government of the Presidency or Lieutenant-Governorship within which he resides, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic, cap. 40. but distinct therefrom.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government

XXXII. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Copies of certificates how to be entered and numbered

XXXIII. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end

Registrar to add number of entry of copy to the certificate, &c.

of every month transmit the same to the Secretary to the Government of the Presidency, or Lieutenant-Governorship, as aforesaid.

Custody and disposal of Register Book of marriages solemnized under Part V of this Act.

XXXIV. The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the same to the person who shall succeed to his duties in the said District, who shall keep safely the same, and shall enter therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said District; and the person having the control of the book at the time when the same shall be filled, shall transmit the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall transmit the same to the Secretary to the Government at the Presidency as aforesaid, to be kept by him with the records of his Office.

Transmission of certificates of certain Marriages to Secretary of State for India.

XXXV. Provided that with regard to the marriages so certified, of which it may appear to the Governor-General of India in Council desirable that evidence shall be transmitted to England, the Secretary to the Government shall, at the end of every three calendar months in each year, send all the certificates of marriage sent to him as aforesaid during such three months, signed by him, to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths, and Marriages.

Correction of Errors.

XXXVI Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may within one calendar month next after the discovery of such error, in the presence of the parties married, or, in case of their death or absence in the presence of two other credible witnesses who shall respectively

attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof, and in case such certificate shall have been already transmitted to the Secretary to the Government of the Presidency or place within which he resides, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

XXXVII. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

XXXVIII. All fees received by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof

XXXIX. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence

of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

XL. Nothing contained in this Part of this Act shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852 of the Governor-General of India in Council.

PART V.

As to the Marriage of certain Native Christians.

Provision for marriages of certain Native Christians.

XLI. And whereas it is expedient to make provision for the marriage of certain Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 of the Governor-General of India in Council are found not to be suitable, it shall be lawful for the local Government of any Presidency or place, or the Chief Commissioner of any Province,, to issue a license to any person, authorizing him to grant certificates of marriage between Native Christians, being converts from any religion in India.

No notice necessary before marriage, but certificate of marriage may be given.

XLII. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V of 1852 of the Governor-General of India in Council, or otherwise, and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise:

Conditions.

1. The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

2. The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity:

3. Neither of the parties intending to be married shall have a wife or husband still living:

4. In the presence of the person so licensed and of at least two witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., in the presence of Almighty God, do take thee, C D., to be my lawful wedded wife *(or husband)*," or words to the like effect:

5. That such declaration be made between the hours of six in the morning and seven in the evening.

On marriage, (the conditions having been fulfilled,) licensed person to grant a certificate thereof.

XLIII. When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received as conclusive evidence of such marriage having been performed, in any suit touching the validity of such marriage, and no evidence to prove the contrary shall be received in any such suit.

Licenses may be revoked.

XLIV. The local Government, or the Chief Commissioner, may at any time revoke any license granted by such Government or Chief Commissioner under Section XLI of this Act.

Grant or revocation of license how to be notified.

XLV. The grant or revocation of any license under Sections XLI and XLIV respectively of this Act shall be notified in the Official Gazette.

XLVI. All marriages performed between Native Christians, as aforesaid, in accordance with the provisions of Section XLII of this Act, shall be good and valid to all intents and purposes

Marriages performed under the provisions of Section XLII to be valid

XLVII. A Register Book of all marriages of which certificates shall be granted under Section XLIII of this Act, shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the local Government shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the local Government shall direct.

Register Book to be kept

XLVIII. Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book, under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Searches to be allowed in the Register Book

PART VI.

As to Penalties.

XLIX. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852 of the Governor-General of India in Council, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in Section 193 of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for false oath, declaration, notice, or certificate, for procuring marriage

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

L. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall be guilty of the offence described in Section 205 of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for a person, not duly authorized, solemnizing a marriage.

LI. Whoever, not being authorized under Section II of this Act to solemnize a marriage shall, on or after the first day of July 1864, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American to penal servitude according to the provisions of Act XXIV of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts.)*

Punishment for solemnizing a marriage otherwise than between certain hours, &c.

LII. Whoever shall, from and after the first day of July 1864, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time otherwise than between the hours of six in the morning and seven in the evening, or in the absence of at least two witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages

solemnized under special licenses granted by the Bishop of the Diocese or by his Commissary.

Punishment for solemnizing marriage when either party is under age, within a certain time after notice.

LIII. Any Minister of Religion licensed to solemnize marriages under this Act, who shall knowingly and wilfully solemnize a marriage when one of the parties to such marriage, not being a widower or widow, is under twenty-one years of age, within fourteen days after the receipt by him of notice of such marriage, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

LIV. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852 of the Governor-General of India in Council, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the said Act V of 1852, without publishing or affixing in some conspicuous place the notice of such marriage as directed by the said Act; or after expiration of two calendar months after a certificate in respect of a marriage shall have been issued by him shall solemnize such marriage; or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the parties intending marriage (not being a widow or widower) is under twenty-one years of age, before the expiration of fourteen days after the receipt of such notice as is required by the said Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person

authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Church of England or of the Church of Scotland, solemnizing marriages without publication of notices, &c.

LV. Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two calendar months after the certificate shall have been issued by him; or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is under twenty-one years of age, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act, by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment on unlicensed person pretending to grant certificate of marriage under Part V.

LVI. Whoever, not being licensed to grant a certificate of marriage under Part V of this Act, shall grant such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for making false entries.

LVII. Whoever shall wilfully insert or cause to be inserted any false entry in any such Register Book, or such authenticated extract therefrom as is mentioned in Section XLVII of this Act, shall be liable to the punishment prescribed by Section 193 of the Indian Penal Code.

Jurisdiction to punish offences punishable under this Act.

LVIII. Offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the said Code of Criminal Procedure; provided that no European British subject shall be liable to be tried for any offence punishable under this Act except by one of Her Majesty's High Courts of Judicature in India. In cases beyond the limits of the Presidency Towns of Calcutta, Madras, and Bombay, charges against European British subjects for any offence under this Act shall be investigated, and the committal for trial shall be made under the provisions of Sections 39, 40, and 41 of the Code of Criminal Procedure, and the trial of European British subjects under this Act by any of the said High Courts shall be under the procedure by which the proceedings of the said High Courts are regulated.

Code of Criminal Procedure applicable to investigations and committals under this Act.

LIX. Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act. Provided that a summons shall ordinarily issue in the first instance, and provided also that offences punishable under this Act shall be bailable.

Meaning of "Church of England."

LX. The words "Church of England" wherever used in this Act, shall mean the United Church of England and Ireland as by law established:

The words "Church of Scotland" wherever used in this Act, shall mean the Church of Scotland as by law established.

And of "Church of Scotland."

Operation of Act.

LXI. This Act shall come into operation on the first day of July 1864.

SCHEDULE (A)—(See Section VI).

Notice of Marriage.

To *the Rev. John Brown*, a Minister of the *Free Church of Scotland, at Calcutta.*

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	*16, Clive Street.*	*23 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hastings' Street.*	*More than a month.*		

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-four.*

(Sd.) JAMES SMITH.

(The *Italics* in this Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.)

SCHEDULE (B)—(*See* Section XX).

Registrar's Certificate.

I, *the Reverend John Brown, a Minister of the Free Church of Scotland at Calcutta in Bengal*, do hereby certify, that on the sixth day of *July* 1864, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith*, one of the parties (that is to say),

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized	District in which the other party resides when the parties dwell in different Districts
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	*16, Clive Street.*	*23 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hastings' Street.*	*More than a month.*		

and that the declaration required by Section XV of this Act has been duly made by the said (*James Smith.*)

Date of notice entered *6th July* 1864.

Date of Certificate given *20th July* 1864.

The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *Twentieth* day of *July one thousand eight hundred and sixty-four.*

(Signed) *John Brown,*

Minister of the Free Church of Scotland

This Certificate will be void unless the marriage is solemnized on or before the 20*th* day of *September* 1864.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.)

SCHEDULE (C)—(See Section XXVI).

Form of Register of Marriages.

Quarterly Returns
of
MARRIAGES,
for

The Archdeaconry of... { *Calcutta,* / *Madras,* / *Bombay,*

I Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,*
do hereby
certify, that the annexed are correct Copies of the Original and Official Quarterly Returns of Marriages
{ *Calcutta,* / *Madras,* / *Bombay,*
within the Archdeaconry of as made and transmitted to me for the Quarter commencing the
First day of *January* ending the *Thirty-first* day of *March*, in the Year of Our Lord One Thousand Eight Hundred and Sixty-four.

Signature of Registrar

Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,*

MARRIAGES solemnized at { *Allahabad,* / *Barrackpore,* / *Bareilly,* / *Calcutta, &c., &c.*

When married.	Names of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's Name and Surname.	By Banns or License.	Names of Witnesses present.	By whom married.
	Christian.	Surname.								
1864, 14th July.	*William John* ..	*Hastings* ..	....	*Bachelor.*	*Upholsterer*	*Hastings' Street* ..	*Peter Hastings* ..	*Banns* ..	*John Thomas Green. Thomas Hastings. William Geo. Mitchell. Harriet Eliza Mitchell.*	*Henry Fisher. Senior Chaplain.*
	Sophia Ann ..	*Mitchell* ..	....	*Spinster.*	.....	*Lower Circular Road.*	*Geoffry Mitchell* ..	.....		

SCHEDULE (D)—See Section XXIX).

MARRIAGE REGISTER BOOK.

No.	When Married.			Name of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's name and Surname.
	Day.	Month.	Year.	Christian.	Surname.					
1	26th	July	1864	*James*	*White*	26 years	*Widower*	*Carpenter*	*Agra*	*William White.*
				Martha	*Duncan*	17 years	*Spinster*	.....	*Agra*	*John Duncan.*

Married in the Free Church of Scotland Church, Agra.

John Young, Minister of the Free Church of Scotland.

This Marriage was solemnized between us .. { *James White,* / *Martha Duncan* } in the presence of us { John Smith. / John Green. }

CERTIFICATE OF MARRIAGE.

No.	When Married.			Name of Parties.		Age.	Condition.	Rank or Profession.	Residence at the time of Marriage.	Father's Name and Surname.
	Day.	Month.	Year.	Christian	Surname.					
1	26th	July	1864	*James*	*White*	26 years	*Widower*	*Carpenter*	*Agra*	*William White.*
				Martha	*Duncan*	17 years	*Spinster*	.....	*Agra*	*John Duncan.*

Married in the Free Church of Scotland Church, Agra.

John Young, Minister of the Free Church of Scotland.

This Marriage was solemnized between us .. { *James White,* / *Martha Duncan* } in the presence of us { John Smith. / John Green. }

SMALL CAUSE COURTS.—PRESIDENCY TOWNS.

ACT No. XXVI. OF 1864.

(Received the assent of the G. G. on the 14th April 1864.)

Recites the expediency of enlarging the jurisdiction of Small Cause Courts, and increasing the number of the Judges.

1. Interprets words "Local Government," "High Court."

2—3. Enlarges the jurisdiction to 1,000 Rupees, if cause of action arises or defendant dwells, &c., within local jurisdiction; and (3) empowers the Court to try by agreement cases above 1,000 Rupees, excepting specified ones.

4. Extends Act VII, 1847, to arrears of rent not exceeding 1,000 Rupees.

5. Extends the provisions of Act IX. 1856, Section 91, to occupations, &c., where the rent does not exceed 1,000 Rupees.

6—8. Extends to the enlarged jurisdiction all the powers, &c., of the Court under Act IX., 1850; and (7) the power in case of doubt to reserve question for High Court, and if two Judges differ question to be reserved; (8) security for costs to be given by whom in case of reference, unless money is paid into Court, &c.

9. If suit brought in High Court for case within Small Cause Court jurisdiction, the plaintiff succeeding is to have no costs, and if the defendant succeeds he is to have costs between Attorney and client, unless Judge certifies to effect specified.

10. In action in High Court against Clerk, &c., of Small Cause Court, plaintiff succeeding to have no costs, unless he recovers 1,000 Rupees, or the Judge certifies.

11. Establishes the Fees of Court as per Schedule.

12. Empowers the local Government, with consent of Government of India, to increase the number of Small Cause Court Judges.

13. Regulates the fees of Counsel and Attornies.

14. Establishes the rank of First Judge, and gives him powers.

15. Empowers the local Government, with consent of the Government of India, to extend the Code of Civil Procedure to the Small Cause Courts.

16. This Act and Act IX., 1850, to be construed as one.

Schedule of Fees.

Preamble.

WHEREAS it is expedient to increase the limit of the jurisdiction of the Courts of Small Causes held under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), and to increase the number of Judges of the said Courts: It is enacted as follows:—

Interpretation.

I. The words "Local Government" and "High Court" as used in this Act, shall bear respectively the same meaning as the words "Governor in Council" and "Supreme Court," as used in the said Act IX of 1850.

Courts held under Act IX of 1850 may take cognizance of suits for sums not exceeding one thousand Rupees.

II. The jurisdiction of the Courts held or to be held under the said Act IX of 1850 shall extend to the recovery of any debt, damage, or demand exceeding the sum of five hundred Rupees but not exceeding the sum of one thousand Rupees, and to all actions in respect thereof (except the several actions specified in the proviso in Section XXV of the same Act), provided that the cause of action shall have arisen or the defendant at the time of bringing the action shall dwell or carry on business or personally work for gain within the local limits of the jurisdiction of the Court.

Such Courts may take cognizance of suits for sums exceeding one thousand Rupees, if the parties consent.

III. If both parties shall agree by a Memorandum signed by them or by their Attornies and filed with the Clerk of the Court of Small Causes, that the said Court shall have power to try any action (not included in the proviso in Section XXV of Act IX of 1850), in which the debt or damage claimed or value of the property in dispute whether on balance of account or otherwise shall exceed the sum of one thousand Rupees, then and in such case the said Court shall have jurisdiction to try such action.

Powers under Act VII of 1847 extended to recovery of arrears of rent not exceeding one thousand Rupees, and the Calcutta Court of Small Causes to exercise such powers.

IV. The powers and provisions of Act VII of 1847 *(to regulate distresses for small rents in Calcutta)* shall be extended to the recovery of all arrears of rent not exceeding one thousand Rupees, and the Judges of the Calcutta Court of Small Causes under Act IX of 1850 shall be empowered to exercise within their jurisdiction the extended powers of the said Act VII of 1847: and the said Act shall be construed as if, instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been

therein mentioned, and the Judges of the Calcutta Court of Small Causes under Act IX of 1850 instead of the Commissioners of the Court therein mentioned, and the amount of one thousand Rupees instead of one hundred Rupees, and the forms contained in the Schedule annexed to the said Act VII of 1847, shall be altered accordingly, and shall refer to Act IX of 1850 and to this Act instead of to Act VII of 1847.

Provisions of Section XCI, Act IX of 1850 extended to tenements not exceeding in value one thousand Rupees.

V. The powers and provisions of Section XCI of Act IX of 1850 are hereby extended so as to apply to the case of any person who shall hold or occupy any house, land, or tenement of which the value or the rent payable in respect thereof does not exceed the rate of one thousand Rupees by the year, and the said Section XCI of Act IX of 1850 shall be read as if the words "five hundred" were omitted, and the words "one thousand" substituted for them.

Provisions of Act IX of 1850 and all rules, &c., made in pursuance thereof extended to demands under this Act.

VI. The several powers and provisions of the said Act IX of 1850 and all rules, orders, and regulations which have been or may be made in pursuance of the said Act, shall extend to all debts, damages, and demands which may be sued for in the said Courts exceeding the sum of five hundred Rupees, and to all proceedings and judgments for the recovery of the same, or otherwise in relation thereto respectively, as fully and effectually, to all intents and purposes, as the same respectively are now or may be applicable to debts, damages, and demands within the present jurisdiction of the said Courts.

In what cases questions to be reserved for the opinion of the High Court.

VII. In any cause of an amount exceeding five hundred Rupees, the Judges of the said Courts of Small Causes shall reserve any question of law or equity or any question as to the admission or rejection of any evidence as to which they shall entertain any doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the High Court, and shall give judgment contingent upon the opinion of the said High Court, on a

case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together and shall differ in opinion, the question on which they differ shall be so reserved.

Security to be given in certain cases when question is reserved for the opinion of the High Court.

VIII. When judgment is given contingent upon the opinion of the High Court, the party against whom such judgment is given shall, unless he be willing to submit to such judgment, forthwith give security to be approved by the Clerk of the Court, for the costs of the reference to the High Court and for the amount of the judgment; provided nevertheless, that such security, so far as regards the amount of the judgment, shall not be required in any case where the Judge of the Court of Small Causes who tried the suit shall have ordered the defendant to pay the amount of such judgment into the hands of the Clerk of the said Court, and the same shall have been paid accordingly; and the said High Court may either order a new trial on such terms as it thinks fit, or may order judgment to be entered for either party as the case may be, and may make such order with respect to the costs of reserving the question and stating the same for their opinion, and otherwise arising thereout or connected therewith, as such High Court may think proper. And all orders made by the High Court under this Section shall be final.

Costs arising from the reserving the question to be at the discretion of the High Court.

No costs in cases brought in the High Court when verdict is for less than a certain amount.

IX. If any action shall after the passing of this Act be commenced in the High Court, for any cause other than those specified in Section C of Act IX of 1850, for which a summons might have been taken out from a Court held under the said Act IX of 1850, or under this Act, and in which such Court would have had jurisdiction, and if a verdict shall be found for the plaintiff for a sum less than one thousand Rupees if the said action is founded on contract, or less than three hundred Rupees if it is founded on wrong, the plaintiff shall have judgment to recover such sum only and no costs, and if a verdict shall not be found for the plaintiff, the

defendant shall be entitled to his costs as between Attorney and client, unless in either case the Judge who shall try the case shall certify that by reason of the difficulty, novelty, or general importance of the case, or of some erroneous course of decisions in like cases in the Court of Small Causes, the action was fit to be brought in the High Court.

No costs to be allowed in suit in High Court against Officer of Court held under Act IX of 1850, if verdict for no more than one thousand Rupees, unless Judge shall certify.

X. If any person shall bring any suit in the High Court in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court held under Act IX of 1850, or under this Act, or under color or pretence of the process of the said Court, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of one thousand Rupees, no cost shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court that the action was fit to be brought in the High Court.

Fees payable in the Courts of Small Causes in suits under this Act.

XI. There shall be payable in the Court of Small Causes at Calcutta, Madras, and Bombay respectively, in every cause of an amount to which jurisdiction is given to the said Court by this Act, the fees set forth in the Schedule hereto annexed, besides the sum of two annas in each Rupee of the amount sued for, so far as such amount does not exceed five hundred Rupees, and one anna in the Rupee so far as such amount exceeds five hundred Rupees, which fee shall be paid over to the same account as that to which the fees payable under Section XIX of Act IX of 1850 are paid over.

Local Governments, with the sanction of the Governor-General of India, to appoint as many Judges as may be necessary.

XII. Whereas by Section VIII of the said Act IX of 1850, provision is made for the appointment of so many persons as may be necessary not exceeding three, to be Judges of the said Courts of Small Causes respectively, it is hereby enacted that it shall be lawful for the local Government with the previous sanction of the Governor-General of India in Council, to appoint as many persons as may be necessary to be Judges of the said Courts respectively.

XIII. The fees to be taken by Barristers at Law and Attornies practising in the said Courts in cases brought within the jurisdiction given by this Act, shall be as follows:—an Attorney shall be entitled to have or recover a sum not exceeding fifty-one Rupees for his fees and costs, and in no case shall any fee exceeding eighty-five Rupees be allowed for employing a Barrister as Counsel in the cause. The expense of employing a Barrister or an Attorney, or both a Barrister and an Attorney, either by plaintiff or defendant, shall not be allowed as costs, unless by order of the Judge, and the Judges of the said Court shall determine in what cases such expenses shall be so allowed.

Fees payable to Barristers and Attornies in suits tried under this Act.

XIV. Of the Judges appointed under Section VIII of the said Act IX of 1850, the one who is a Barrister at Law or Advocate of one of the High Courts of India or of the Court of Session of Scotland shall be styled the First Judge. The First Judge shall make such arrangements as he shall think fit, with regard to the distribution of the suits and of the general business of the Court among the various Judges thereof: and he may vary such arrangements from time to time.

One of the Judges appointed under Act IX of 1850, to be styled First Judge; and to arrange the distribution of business among the Judges.

XV. The Local Government may, with the sanction of the Governor-General of India in Council, declare that the whole or any part or parts of the Code of Civil Procedure shall be applicable to any Court held under Act IX of 1850 or under this Act: and the procedure prescribed in the said Code or the part or parts thereof so declared to be applicable shall thereupon be the procedure followed in such Court: Provided that no right of appeal or review shall in any case be given by any declaration made under this Section.

Code of Civil Procedure may be extended to Small Cause Courts.

XVI. This Act and the said Act IX of 1850 shall be read and construed as one Act, as if the several provisions in the said Act contained, not inconsistent with the provisions of this Act, were repealed and re-enacted in this Act.

This Act to be read as part of Act IX of 1850.

SCHEDULE OF FEES.

Sums not above.	Every Summons or Subpœna.		Warrant.	
Rs.	Rs.	As.	Rs.	As.
600	2	4	6	0
700	2	8	7	0
800	2	12	8	0
900	3	0	9	0
1,000	3	4	10	0

OATHS OF QUALIFICATION, JUSTICES OF THE PEACE.

ACT. No. XXVII. OF 1864.

(*Received the assent of the G. G. on the* 28*th November* 1864).

Recites conscientious objections to the oaths administered to Justices of the Peace.

1. Repeals Act XVI Section 1 of 1841.
2. Appoints a new declaration.
3. Directs that the declarations subscribed under this Act shall be sent to Government.

Preamble.

WHEREAS cases have arisen wherein persons have brought forward conscientious objections to taking the several oaths hitherto administered to Justices of the Peace in order that they may be duly qualified to act under Commissions of the Peace; It is enacted as follows:—

Repeal of Section I of Act XVI of 1841.

I. Section 1 of Act XVI of 1841 is hereby repealed.

Justices of the Peace to be capable of acting as such on making certain declarations.

II. All persons who are or shall be nominated and appointed in any Commission of the Peace, shall be capable of acting as Justices of the Peace in every respect according to the terms of such Commission, upon making and

subscribing before any other Justice of the Peace or the Chief Civil Officer of any Station within the places in and for which any such Commission shall have issued, declarations to the following effect:—

"I declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria."

"I declare that I will truly and faithfully discharge the office of a Justice of the Peace."

III. The subscriptions of such persons to the said declarations shall be deposited and kept with the records in the Home Department of the Office of the Secretary to the Government in the Province wherein such declarations shall have been made.

Subscriptions to such declarations where to be deposited.

ABKARREE REVENUE.—PUNJAB.

ACT No. XXVIII. OF 1864.

(Received the assent of the G. G. on the 28th November 1864).

Recites expediency of extending the Abkárí Laws of Bengal to the Punjab.

1. Empowers the Governor-General in Council to extend Act XXI. 1856, to any parts under the control of the Lieutenant-Governor of the Punjab; (2) powers under the Act to be vested in such Courts, &c., as the Lieutenant-Governor, with consent of the Governor-General in Council, may appoint.

3. Gives immunity from legal responsibility for acts done before specified date under illegal Government orders.

WHEREAS it is expedient to empower the Governor-General of India in Council to extend the provisions of Act XXI of 1856 *(to consolidate and amend the law relating to the Abkárí Revenue in the Presidency of Fort William in Bengal)*, and of Act XXIII of 1860 (*to amend Act XXI of* 1856), to any province or place under the control of the Lieutenant-Governor of the Punjab: It is enacted as follows:—

Preamble.

Provisions of Act XXI of 1856 and of Act XXIII of 1860 may be extended to the Punjab.

I. It shall be lawful for the Governor-General of India in Council by notification in the *Gazette of India*, to extend all or any of the provisions of the said Act XXI of 1856 relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and of the said Act XXIII of 1860, to any of the provinces or any part or parts thereof under the control of the Lieutenant-Governor of the Punjab.

Powers to be exercised under said Acts in what Courts and Officers to be vested.

II. The powers to be exercised under any of the provisions of the said Acts shall be vested in such Courts and Officers as the said Lieutenant-Governor may with the sanction of the Governor-General in Council appoint for the purpose.

Levy of Duties under said Acts, under orders of Punjab Government, legalized.

III. No proceedings at law shall be taken against any Officer, for any act done or omitted on or after the eighteenth day of April 1864 by virtue of any order of the Government of the Punjab heretofore made, directing the levy of any such Duty as is authorized by the said Acts XXI of 1856 and XXIII of 1860 to be levied.

P. M. CRANENBURGH, Printer, Bengal Printing Company Limited.

THE

LEGISLATIVE ACTS

OF THE

GOVERNOR GENERAL OF INDIA

IN COUNCIL

OF 1865,

WITH ABSTRACTS PREFIXED, TABLE OF CONTENTS AND INDEX.

In continuation of the Acts from 1834 to the present time.

BY

WILLIAM THEOBALD, ESQ.,

BARRISTER AT LAW.

Calcutta:

THACKER, SPINK AND CO.

AND TO BE HAD OF ALL BOOKSELLERS.

1866.

P. M. CRANENBUGH AND JAS. R. RODGERS,

BENGAL PRINTING COMPANY LIMITED.

CONTENTS.

TITLES OF ACTS OF 1865.

The Acts of this year have been passed without the usual heading of Titles. Titles are supplied in the following Table:—

			Page.
No.	1.	The Acts and Regulations Extension Act, 1865	1
	2.	An Act for the better maintenance of the Rural Police in the N. W. Provinces	2
	3.	The Carriers' Act, 1865	7
	4.	The Administrator-General's Act, 1865	11
	5.	The Indian Marriage Act, 1865	12
	6.	The Arms Act Continuance Act, 1865... ...	41
	7.	The Government Forests' Act, 1865	*ib.*
	8.	Act to indemnify the Sheriff and make valid certain process	48
	9.	Act to amend Act XVI, 1864, for the Registration of Assurances	50
	10.	The Indian Succession Act, 1865	53
	11.	Act to consolidate and amend the Law relating to Mofussil Small Cause Courts	173
	12.	Act to transfer the care of the Great Gaol of Calcutta from the Sheriff to an Officer appointed by Government	191
	13.	The High Courts' Criminal Procedure Act, 1865	195
	14.	The Central Provinces Courts' Act, 1865 ...	215
	15.	The Parsee Marriage and Divorce Act, 1865	221
	16.	Act to declare the Jurisdiction of the Revenue Courts, &c., in Oudh	238
	17.	Act to amend the Law relating to Customs Duties	242
	18.	Act to amend Act X, 1862, relating to Stamp Duties	246
	19.	The Punjab Courts' Act, 1865	247
	20.	The Pleaders, Mookhtars, and Revenue Agents' Act, 1865	254

Page.

No. 21. The Parsee Intestate Succession Act, 1865 ... 276
22. Act to amend Act XVIII, 1864, the Lucknow Municipal Act 279
23. The Punjab Chief Court Act, 1865... ... 280
24. Act to give effect to certain Warrants of Attorney and Cognovits filed in the late Supreme Court 297
25. Act to repeal Act XVII, 1865, relating to Customs Duties 300
26. Act to amend the 83rd Article of War of Act XXIX, 1861 304
27. Act to amend Act XXIII, 1865, relating to the Punjab Chief Court 305
28. Bombay Insolvent Traders' Act 306
29. Act to amend the Pleaders, Mookhtars, and Revenue Agents' Act, 1865... 318
30. Act to limit and define the Water Rates of the Madras Irrigation and Canal Company 319

INDEX.

ACCUMULATIONS.—(*Indian Succession Act.*)
Directions to accumulate, effect of, 104.

ACTS OF THE LEGISLATIVE COUNCIL *repealed, amended, modified, supplemented, continued, and extended.*

1 1846 (Pleaders) repealed, 274.
5 1852 (Marriage) supplemented, 29.
18 „ (Pleaders) repealed, 274.
20 1853 (Pleaders) repealed, *ib.*
3 1859 (Cantonment Joint Magistrates) their jurisdiction saved, 179.
7 „ (Customs Duties) partially repealed, 242.
10 „ (Pleaders) repealed, 274.
23 „ (Customs Duties) repealed, 242.
10 1860 (Customs Duties) partially repealed, *ib.*
31 „ (Arms Act) continued, 41.
42 „ (Small Cause Courts) repealed, 176; but references in it to be considered as included in Act XI, 1865, 190.
12 1861 (Small Cause Courts) repealed, 176.
10, 26 1862 (Stamp Duties) extended to Mofussil Small Cause Courts, 189.
11 „ (Customs Duties) partially repealed, 242; and s. 33 repealed, 246; and schedule B altered, 247.
18 „ (High Court Criminal Procedure) extended, 200.
23 „ (Customs Duties) repealed, 242.
16 1864 (Registration of Assurances) s. 16 altered, 50; and s. 30 amended, *ib.*; and s. 25 repealed, *ib.*; and s. 28 amended, 51; and s. 40 repealed, *ib.*
18 „ (Lucknow Municipal Committee) amended, 279; and s. 21 repealed and amended, *ib.*
22 „ (Military Cantonments) qualified, 189.
23 „ (Customs Duties) repealed, 242.
25 „ (Marriage Act) repealed, 15.
17 1865 (Customs Duties) repealed, 300.
20 „ (Pleaders, Vakeels, and Mooktars) amended.

ACTS AND REGULATIONS EXTENSION ACT.
Applies to Punjab and N. W. Provinces, 1, *et seq.*; effect of its application, 2.

ADEMPTION OF LEGACIES.—(*Indian Succession Act*).
What it means, 121; when it takes place in regard to specific Legacies, *ib. et seq.*; when in regard to demonstrative Legacies, 122, *et seq.*

ADMINISTRATION BOND.—(*Indian Succession Act*).
To be given, 153; and may be assigned, 154.

ADMINISTRATOR.—(*Indian Succession Act*).—*See Grant of Letters of Administration.*
Means what, 65.

ADMINISTRATOR-GENERAL'S ACT.
Act of 1865, 11.

ADMINISTRATORS-GENERAL.—(*Indian Succession Act*).
Rights of, saved, 172.

ADMINISTRATORS.—(*Indian Succession Act*).—*See Executors, Representatives.*
Their power as to causes of action, 156; and their liability as to causes of action, *ib.*; and from what exempt, *ib., et seq.*
Their powers when several, 157.

Their powers as to property, 157; may not purchase estate property, 158.
Their duties, 158; as to filing inventory and accounts, *ib.*; as to property and debts, 159; as to expenses, *ib.*; as to wages, *ib.*; debts to be paid by, according to law of domicile of deceased, *ib.*; when entitled to indemnity, 160.

ADVOCATES, VAKEELS, AND ATTORNIES.
Of High Court excepted from Pleaders' and Mooktars' Act, 271; and right of Advocates and Vakeels enrolled in High Court extended to any other Court, *ib.*

AGENTS IN REVENUE COURTS.
Who may be, 264; must be enrolled, *ib.*; and take out Certificate, *ib.*; on Stamp, 265; of what amount, *ib.*; and in what Form, 274.
Revenue Board to be satisfied of their qualification, 265.
To be examined, *ib.*
To be suspended, &c. on conviction of criminal offence, 266; or for fraudulent conduct, &c., *ib.*; and as to proceedings for suspension, &c., 266; and as to power of Board on acquittal, 267; and if Pleader or Mooktar also may be suspended, &c., as such and how, *ib. et seq.*
On suspension to deliver up his Certificate, 268.
Person having Power of Attorney may be enrolled as, 268.
Their remuneration to be fixed by rules, 269; but may also make private agreement, *ib.*

ALIMONY.—(*Parsee Matrimonial Suit*).
May be awarded when, 232; and to whom made payable, *ib.*

AMBIGUITY.—(*Indian Succession Act*).—*See Wills.*
As to admission of evidence to explain, 87.

ANNUITY.—(*Indian Succession Act*).
As to legacy of, its construction, 130; and when it vests, *ib.*; and when it abates, 131.
As to payment and apportionment of, 164; when no time is fixed, *ib.*; when annuitant dies, *ib.*
When it bears interest, 168; and from what time, *ib.*

ARMS ACT.
Continued to 1st October 1866, 41.

ARTICLES OF WAR.—*See Non-Commissioned Officer and Soldiers.*

ASSENT OF EXECUTOR TO LEGACY.—(*Indian Succession Act*).—*See Legacies.*
Its effect, 161.

ASSESSMENTS OF HOUSE TAX.—(*N. W. Provinces.*)—*See Rural Police.*
To be at what rate, 3; and when to fall due, 4; and how realizable, *ib.*; and how to be complained against, *ib.*; and how paid, 5; and how applied, *ib.*

ASSISTANT COMMISSIONER, COURT OF.—*See Central Provinces Court.*
His jurisdiction defined, 217.

ASSISTANT COMMISSIONER, COURT OF.—(*Punjab.*)
Act respecting, 249, *et seq.*

ASSOCIATE JUDGE.
May be appointed on Circuit Commission with High Court Judge, 206; and may be Sessions Judge or Barrister, *ib.*; and may try any other person than a British subject, 214.

ASSURANCES.—*See Registration of Assurances.*

ATTESTING WITNESSES.—(*Indian Succession Act.*)—*See Wills.*
Effect of legacy to, 82.
Interest of, no disqualification, *ib.*

ATTORNIES.—*See Advocates, Vakeels, and Attornies.*

BARRISTERS.
Commission to, may be issued to hold sittings at any place in India, 214; with same power as High Court Judge, 215.

BEQUESTS.—(*Indian Succession Act.*)—*See Legacy.*
BIGAMY.—*See Re-marriage of Parsees.*
BOARD OF REVENUE.—*See Agents in Revenue Courts.*
BRITISH INDIA.—(*Indian Succession Act.*)
What the term means, 64.
BRITISH SUBJECT.—*See European British subjects in Mofussil.*
BRITISH SUBJECTS.—(*Punjab.*)—*See European British subjects.*
CARRIERS' ACT.—*See Common Carriers.*
CAVEAT AGAINST GRANT OF PROBATE OR LETTERS OF ADMINISTRATION.—(*Indian Succession Act*)
How to be entered, 152; and to be to what effect, *ib.*; and its consequences, *ib.*
CENTRAL PROVINCES COURTS.
Act, called the Central Provinces Courts' Act, 216.
To be of eight grades, 216; and their names, *ib.*; and their respective jurisdiction, 217, *et seq.*
Procedure on appeal defined, 218; and from what decisions an appeal lies, 219.
Suits to be commenced in Courts of lowest grade competent, 219; and in what Court in respect of immoveable property, 220; and where, if property be in different Districts, *ib.*, *et seq.*
CERTIFICATE OF MARRIAGE.
Persons may be specially licensed to issue, 29; in case of marriage of what persons, *ib.*
CERTIFICATE OF NOTICE OF MARRIAGE.—*See Marriage of Christians and Native Christians.*
On what conditions and when to be issued, 20, *et seq.*; its Form, 371; and what is to be done thereupon in case of Native Christians, 22
CHALLENGES OF JURORS.—(*High Court.*)
How many allowed in cases of Special Juries, 203; and how many of Common Juries, *ib.*; and as to grounds of challenge, *ib.*, *et seq.*
To be tried, 204.
CHARGE IN HIGH COURT CRIMINAL PROCEDURE.
The word indictment to mean charge, 200.
Power of Clerk of the Crown in regard to, *ib.*
If clearly not sustainable, *nolle prosequi* to be entered on, 201.
Its effect as against British subjects in Mofussil, 208.
CHILD, CHILDREN.—(*Indian Succession Act.*)
Share of property in case of intestacy, 75, *et seq.*; not to be reduced on ground of previous advancement, 97.
CHILDREN, GRAND CHILDREN, NEPHEWS, NIECES, COUSINS, FIRST COUSINS, COUSINS GERMAN, FIRST COUSINS ONCE REMOVED, SECOND COUSINS, ISSUE, DESCENDANTS.—(*Indian Succession Act*)
As to the construction of Bequests to, 94.
CIRCUIT COMMISSION.—*See Commission to Judges for Circuit.*
CLASS OF PERSONS.—(*Indian Succession Act.*)
As to construction of Bequests to, 93, *et seq.*
CLERK OF COURT OF SMALL CAUSE IN MOFUSSIL.
May be appointed, 188; and remunerated how, *ib.*; and may exercise specified powers subject to Registrar, *ib.*
CLERK OF THE CROWN.—(*High Court Criminal Procedure.*)
Magistrates to send charges, &c. to him, 199, *et seq.*; his powers in regard to them, 200.
Commitments of European British subjects to be sent to, 207; and his duty in respect of them, *ib.*
His office in regard to criminal charges,
CODICIL.—(*Indian Succession Act*)
What it means, 65.

COGNOVITS.—(*Supreme Court.*)
Act to give effect to certain, 298, *et seq.*
Powers of High Court in reference to, *ib.*
COLLATERAL CONSANGUINITY.—(*Indian Succession Act.*)—*See Descendants.*
What it is, 69.
COMMISSIONER.—(*Central Provinces.*)—*See Central Provinces Court.*
His jurisdiction defined, 218.
COMMISSION TO HIGH COURT JUDGES FOR CIRCUIT.
Governor-General in Council may issue one for Bengal, &c., 204; and Madras Government for Madras, 205; and Bombay Government for Bombay, *ib.*, *et seq.*
Ordinary original criminal jurisdiction, under, to be exercised subject to s. 28, 205.
Appellate jurisdiction, under, may be allotted by High Court, 206.
To fix time and district for Commission to remain in force, *ib.*
Sessions Judge or Barrister of 5 years' standing may be included in, *ib.*
Trials under, to be by Jury, 210.
COMMITMENTS.—*See Superintendent of Presidency Gaol. European British Subjects. (Punjab.)*
COMMON CARRIERS.—*See Railway and Tramway Carriers.*
The Carriers' Act of 1865 relating to, 8.
Exempted from responsibility for what loss or damage, *ib.*; unless value be declared, *ib.*; and may require pre-payment for goods at the specified value, *ib.*; must return price of carriage when responsible for loss, &c., 9.
Liability of, not to be limited by notice, *ib.*; not limited for loss occasioned by negligence, &c., 10; and in action against, negligence, &c., need not be proved, *ib.*
COMMON JURY PANEL.—(*Presidency Town.*)—*See Challenges.*
All persons not on Special Jury List to be put in Common Jury List, 201; such List to be prepared by whom, 202.
To consist of 72 persons, 203.
CONDITIONAL BEQUESTS.—(*Indian Succession Act.*)
Rule as to, 110, *et seq.*
CONJUGAL RIGHTS.—*See Restitution of.*
CONSANGUINITY.—(*Indian Succession Act.*)
What it is, 69; if lineal, what it is, *ib.*; if collateral, what it is, *ib.*
Table of, 71; with degrees of relationship numbered, *ib.*
CONSTRUCTION OF WILLS.—(*Indian Succession Act.*)—*See Wills.*
CONTINGENT BEQUESTS.—(*Indian Succession Act.*)
Rule as to, 109, *et seq.*; and when to be invested, 165.
COURT OF WARDS.—(*Indian Succession Act.*)
Legacy to Minor, whom to be paid to, 166.
COUSINS, FIRST COUSINS, SECOND COUSINS, COUSINS GERMAN, FIRST COUSINS REMOVED.—(*Indian Succession Act.*)—*See Children.*
CRIMINAL PROCEDURE.—*See High Court Criminal Procedure.*
CROWN, THE.—(*Indian Succession Act.*)
Its interest in case of intestacy, 72
CUSTOMS DUTIES ON EXPORTS AND IMPORTS.
Act to amend law relating to, 242, *et. seq.*; repealed, 300; and other duties enacted, *ib*, *et seq.*
DEATH.—(*High Court on Circuit.*)
Sentence of, by High Court Judge on Circuit, not to require confirmation, 212; nor statement of grounds, *ib.*
DEATH.—(*Punjab Chief Court.*)
Sentence of, in Punjab Chief Court not to require confirmation, 291; nor statement of grounds, *ib.*
DEATH.—(*Indian Succession Act.*)
As to gifts in contemplation of, 135.

DEBTS.—(*Indian Succession Act.*)
Payment of, by Executors and Administrators, 159, *et seq.*; payment to be according to law of domicile of deceased, *ib.*; and to be paid before legacies, *ib.*
DEGREES OF RELATIONSHIP.—(*Indian Succession Act.*)—*See Consanguinity.*
How computed, 69; in case of lineals, *ib*; in case of Collaterals, *ib.*
DELEGATES.—(*Parsees.*)
To be appointed, for life, to assist Parsee Matrimonial Courts, 229; who shall be Public Servants under Indian Penal Code, *ib.*; to be employed in rotation, *ib.*
DEMONSTRATIVE LEGACIES.—(*Indian Succession Act.*)
When a legacy is said to be demonstrative, 120.
Rule as to, 121.
When not adeemed, 122.
DEPUTY COMMISSIONER.—(*Central Provinces Court.*)
His jurisdiction defined, 218.
DEPUTY COMMISSIONER, COURT OF.—(*Punjab.*)
Act respecting, 249, *et seq.*
DESCENDANTS, LINEAL DESCENDANTS, COLLATERAL.—(*Indian Succession Act.*)—*See Children.*
Their Interests, in case of intestacy, 72, 73.
DEVASTATION.—(*Indian Succession Act.*)—*See Waste.*
DISTRICT JUDGE.—(*Indian Succession Act.*)
What the term means, 64.
Probates of Will and Letters of Administration to be granted by, 96: when, *ib.*; and how, *ib.*; and to whom, *ib.*, *et seq.*; and according to what procedure, *ib.*; and in what form, 153.
High Court to have concurrent jurisdiction with in matters of Probate, &c., 155.
Legacy when to be paid to,
DISTRICT REGISTRAR.—(*Assurances.*)
May act for Registrar-General during his absence, 52.
DIVORCE OR JUDICAL SEPARATION OF PARSEES.
Under what circumstances it may be obtained, 231.
DOMICILE.—(*Indian Succession Act.*)
Law of, 66, *et seq.*; as respects immoveable property, *ib.*; and moveable property, *ib.*
Can only be one for purpose of succession, 66.
Of origin, what is, *ib.*; how long it lasts, 67; and who has it, 66; of posthumous child, *ib.*; and of illegitimate child, whose, *ib.*
A new one, how acquired, 67; and how long it lasts, 68.
How acquired in British India, 68.
When and by whom not acquired by residence, 68.
Where, if no proof of, 69.
DONATIO CAUSA MORTIS.—(*Indian Succession Act.*)
DOUBLE BEQUESTS.—(*Indian Succession Act.*)
Rules for construction of, 95.
EXECUTOR.—(*Indian Succession Act.*)
Means what, 65.
Bequest to, when he may take it, 116.
EXECUTORS.—(*Indian Succession Act.*)—*See Grant of Probate. Representatives.*
May be appointed how, 135.
All the property of deceased vests in, 136.
As to grant of Probate to, 137, *et seq.*
As to renunciation of appointment of, 139; and how it may be, *ib.*
Their power as to causes of action, 156; and their liability as to causes of action, *ib.*; and from what exempt, *ib.*, *et seq.*
Their powers, when several, 157.

Their power as to property, 157 ; when there are several, *ib.* ; and in case of death of any, 158.
May not purchase estate property, 105.
Their duties, 106 ; as to funeral, *ib.* ; as to filing inventory and account, *ib.* ; as to property and debts, 107 ; as to expenses, *ib.* ; as to wages, *ib.* ; and as to debts, to be guided by law of deceased's domicile, *ib.* ; when entitled to indemnity, 169 ; as to payment of legacies, *ib.* ; as to specific legacies, 161 ; and as to demonstrative legacies, *ib.*
As to their assent to legacy, 161 ; and its effect, *ib.*
EXECUTORS OF THEIR OWN WRONG.—(*Indian Succession Act.*)
Who to be deemed such, 155 ; and who not, 156 ; and their responsibility, *ib.* ; and to whom, *ib.*
EXTENSION ACT.—*See Acts and Regulations Extension Act.*
FAMILY.—(*Indian Succession Act.*)—*See Heirs.*
FINANCIAL COMMISSIONER.—(*Punjab.*)
May be invested with powers of a Judicial Commissioner, if Settlement of Land Revenue in progress, 253 ; and *See* 505.
FORESTS.—*See Government Forests.*
FULL BLOOD, HALF BLOOD.—(*Indian Succession Act.*)
No difference between, in computing degrees of relationship, 70.
ELECTION.—(*Indian Succession Act.*)
When it arises, 132 ; and its consequences, *ib.* ; and what may constitute, 134 ; may be postponed in case of disability, 135.
EPISCOPAL CLERGYMAN.—*See Marriage of Christians and Native Christians.* —*See Minister of Religion.*
EUROPEAN BRITISH SUBJECT.—(*High Court Circuits.*)
Justices of the Peace how to act in regard to, 207.
Commitments of, to be sent to Clerk of the Crown, *ib.* ; and his duty in respect of them, *ib.*
Effect of charge against, 208 ; and to be tried before High Court Judge, *ib.* ; to be committed for intermediate custody, to what jail, *ib.* ; until orders of High Court, *ib.* ; which may order where he shall be tried, 209 ; and as to his trial in the Mofussil, 210 ; and trial of, to be according to (Mofussil) Code of Criminal Procedure, *ib.* ; and to be by Jury, *ib.* ; the majority of whom, if required, shall be Europeans or Americans, 212 ; and to consist of what number, *ib.*
EUROPEAN BRITISH SUBJECTS.—(*Punjab.*)—*See Punjab Chief Court.*
May be tried by Punjab Chief Court, 287 ; and shall be committed for trial by it, *ib., et seq.* ; charges against, how to be framed, *ib., et seq.* ; and what to be done if clearly unsustainable, 288 ; and proceedings below to be sent to Registrar, *ib.*
Entitled to copy of depositions, *ib.*
To be committed to what custody, 289.
Directions for trial of, may be given by Chief Court, 290.
Shall be tried by Jury, *ib.* ; to be summoned how, *ib.* ; and majority, if required, to be Europeans or Americans, 291 ; and as to proportion necessary for verdict of guilty, *ib* ; and save as aforesaid Code of Criminal Procedure to apply to Juries, 292.
Sentence of death upon, not to require confirmation, 29 ; and judgment and sentence need not be in any particular form, *ib*,
May reserve question, on conviction before any Judge of Chief Court, 292.
May be committed for offence in Native State, as if it were committed in British territory, 293 ; and as to course of procedure in such case, *ib.* ; and commitment to be in what form, *ib.*
FINANCIAL COMMISSIONER.—(*Punjab.*)
May temporarily be invested with power of Judicial Commissioner, 305.
GENDER, WORDS OF.—(*Indian Succession Act.*)
How to be understood, 64.

GOVERNMENT ANNUITY.—(*Indian Succession Act.*)
When to be purchased, for satisfaction of legatee, 165.
GOVERNMENT, SUITS AGAINST.—*See Small Cause Courts in the Mofussil.*
GOVERNMENT FORESTS.
Act relating to, 41, *et seq.*; its interpretation, 42; its local application to be declared by Government, 43.
Rules may be made for, on specified matters, *ib.*; but not to be repugnant to any law in force, *ib.*
As to penalties for infraction of Forest Rules, 45; powers for repressing infraction of Forest Rules, 46; and limit of time for prosecutors, 47.
GRAND CHILDREN.—(*Indian Succession Act.*)—*See Children.*
GRAND JURY.—*See Special Jury.*
Abolished, 201.
GRANT OF LETTERS OF ADMINISTRATION.—(*Indian Succession Act.*)
May be of copy of Will, when, 135.
Cannot be to minor, 138; nor to person of unsound mind, *ib.*; nor to married women without husband's consent, *ib.*; may be with copy of Will annexed, 139; and to residuary legatee, when, 140.
Essential to constitute right to property of deceased, 138; its effect on antecedent Acts, 139.
Who are entitled to, 140; widow entitled to, when, *ib.*; either alone, or with another, when, 141; and if no widow, may be to person beneficially interested, *ib.*
When to be limited, 142; and how, *ib.*; and to person beneficially interested, when, 92; and of unadministered estate, when, 146.
May be altered or amended in case of error, 147.
May be revoked, when, *ib.*
As to the practice in granting and revoking, 148; and by what procedure, *ib.*
Application for, how to be made, 150; and how verified, *ib. et seq.*
Caveats against how to be made, 152.
Payments made to grantee valid, though grant afterwards set aside, 155.
May be by High Court, 155.
GRANT OF PROBATE.—(*Indian Succession Act.*)
To be to whom, 135; may not be to minor, 137; nor to person of unsound mind, *ib.*; nor to married women, except by consent of husband, *ib.*
May be to one of several executors, reserving right of others, 137; and to residuary legatee, when, 139; and to his representative, when, 140.
May be of Codicil, when, 137.
When to be limited, 142; and how, *ib.*
May be revoked, when, 147.
As to the practice in granting and revoking, 148; and by what Court to be granted, *ib.*; and by whom to be made, *ib.*; and by what procedure, *ib.*
Application for, how to be made, 150; and how verified, *ib.*, *et seq.*
Caveats against, how to be made, 152.
Not to be, till what time, 154.
GREAT JAIL OF CALCUTTA.—*See Superintendent of Presidency Jail.*
Act to transfer from the Sheriff to an Officer appointed by Government, 192, *et seq.*
GUARDIAN, TESTAMENTARY.—(*Indian Succession Act.*)
May be appointed, by whom, 79.
HALF-BLOOD, FULL-BLOOD.—(*Indian Succession Act.*)
No difference between, in computing degrees of relationship, 70.
HEIRS, RIGHT HEIRS, RELATIONS, NEAREST RELATIONS, FAMILY, KINDRED, NEAREST OF KIN, NEXT OF KIN.—(*Indian Succession Act.*)
Bequest, to, how to be carried out, 91.

HIGH COURT.—(*Indian Succession Act.*)
Means what, 65.
To have concurrent jurisdiction with local Judge in matters of Probate and Letters of Administration, 155.
HIGH COURT CRIMINAL PROCEDURE.
Act to amend, 198, *et seq.*
HIGH COURT.—(*Small Cause Courts in Mofussil.*)
Its authority under reference from Mofussil Small Cause Courts, 183, *et seq*; and procedure in such case, 183; and its power as to costs, *ib.*; and over the terms of the decree, 184.
May make rules for Small Cause Courts, 188.
HINDOO, MAHOMEDAN, AND BUDDHIST SUCCESSION.—(*Indian Succession Act.*)
Saved from operation of this Act, 172.
HOUSE TAX.—(*N. W. Provinces.*)—*See Rural Police.*
Occupiers may be assessed to, 3; at what rate, 4; proprietors may be assessed for Rural Police, *ib.*, *et seq.*
HOUSE OF CORRECTION.—(*Calcutta*).—*See Great Jail of Calcutta.*
ILLEGITIMATE CHILD.—(*Indian Succession Act.*)
Domicile of, where, 66; not included in general bequest to children, 94.
IMMOVEABLE PROPERTY.—(*Indian Succession Act.*)
What it includes, 12; succession to, how regulated, 66.
INDIAN SUCCESSION ACT.
The interpretation of specified words in it, 64, *et seq.*; Administrators-General saved from operation of, 172; and Hindoo, Mahomedan, and Buddhist succession saved from operation of, *ib.*; and Governor-General in Council empowered to exempt classes from operation of, *ib.*, *et seq.*
Stamp duties for Probates, &c., established by, 173; when to come into operation, 120; and not to apply to certain specified Wills, *ib.*; nor what parts of, to Parsees, 278.
INDICTMENT.—(*High Court Criminal Procedure.*)
To mean charge, 200.
INSOLVENT TRADERS.—(*Bombay.*)
Act to provide for the more speedy liquidation of their estates, 307; to apply only to estates the admitted liabilities of which exceed 5 lakhs of rupees, *ib.*
INTEREST OF LEGACY.—(*Indian Succession Act.*)
When legacy bears interest, 166; and when payable, *ib.*, *et seq.*; and from what time it runs, *ib.*, *et seq.*; and at what rate, 168; when payable from death of testator, *ib.*
INTESTACY.—(*Indian Succession Act.*)—*See Intestate's Property.*
What it is, 71, *et seq.*
In case of, on whom the property devolves, 72; as to widow's share, if there are lineal descendants, *ib.*; and if no lineal descendants, *ib.*; and on whom, if there be no widow, *ib.*; and on whom, if neither widow nor lineal descendants, *ib.*
INTESTATE.—(*Indian Succession Act.*)
Who entitled to administration of estate of, 140; widow of, when, *ib.*; next of kin, when, *ib.*; creditor of, when, 141; and who, if domicile of, be out of India, *ib.*
INTESTATE'S PROPERTY.—(*Indian Succession Act.*)
Rules for distribution of, 73; among lineal descendants, *ib.*; children, *ib.*; and grand-children, *ib.*
Rules for distribution of, among collateral descendants, 75; intestate's father when entitled, *ib.*; or mother, *ib.*; or brother or sister and their children, *ib.*; or if no father, 76; but a mother, *ib.*; and no brother or sister or child, *ib.*
Child claiming, not to have deduction made by way of hotchpot, 77.

ISSUE.—(*Indian Succession Act.*)—*See Children.*
JUDICIAL COMMISSIONER, COURT OF.—(*Punjab.*)
Act respecting, 249, *et seq.*
Financial Commissioner may temporarily be invested with powers of, 305.
JUDICIAL COMMISSIONER.—*See Central Provinces Court.*
His jurisdiction defined, 218.
JURORS.—(*High Court, Calcutta.*)
Panel of, to be 36 Special Jurors, 72 Common Jurors, existing High Court Rules respecting, continued, 204; how many may be challenged, 203; and on what grounds, *ib.*, *et seq.*
JURY.—(*High Court on Circuit.*)
Number of required on trial of European British subject on Circuit, 212; of whom, what majority required for verdict of guilty, *ib.*; and how to be composed, *ib.*
JURY.—(*Punjab Chief Court.*)
What trials to be by, 290; and how to be composed, if of European British subject, *ib.*; and what majority required for verdict of guilty, 291.
JURY LISTS.—(*High Court, Calcutta.*)—*See Special Juries, Common Juries.*
To be prepared by whom, 202, *et seq.*; and how composed, *ib.*
JUST CAUSE.—(*Indian Succession Act.*)
Meaning of, explained, 146.
KINDRED.—(*Indian Succession Act.*)—*See Heirs.*
LEGACY—BEQUEST.—(*Indian Succession Act.*)—*See Specific Legacy, Void Bequests, Onerous Bequests, Contingent Bequests, Conditional Bequests, Residuary Bequests.*
When the interest vests, 97; and when it lapses, *ib.*
Rule as to legacy to persons jointly, 98.
As to appropriation of lapsed legacy, *ib.*
As to legacy to A for B, if A dies before B, 99.
As to legacy to classes, in case of death of some individuals, *ib.*
As to the vesting of, 105; when given on a contingency, 106.
As to burdens with which they are chargeable, 127; or expenses to complete, *ib.*; charges in respect of, when to be borne by estate, 128.
Subject of, when to be purchased, 129.
Of interest, when the principal also passes, *ib.*
Of annuity, its construction, 130.
To creditors, its construction, 131; and to proportioners, *ib.*
As to ademption of, 132.
For a man's benefit, its construction, 133.
Assent of executor to, 161, *et seq.*; and its effect, 162.
Payment of, when to be made, 163.
As to investments to provide for, 164, *et seq.*; of money to be invested, 165; if general, sufficient sum to be invested, *ib.*; when to be invested in a Government annuity, *ib.*
As to produce and interest of, 166.
As to refund of, 168, *et seq.*
LEGAL REPRESENTATIVES.—(*Indian Succession Act.*)—*See Representatives.*
LEGATEE.—(*Indian Succession Act.*)
In different characters, may take in one and refuse in another, 133.
When put to his election, 132; and when he may be required to make, 135.
LETTERS OF ADMINISTRATION.—(*Indian Succession Act.*)—*See Grant of Letters of Administration.*
LICENSED MINISTERS.—*See Marriage of Christians and Native Christians.*
LIMITED GRANTS OF LETTERS OF ADMINISTRATION.—(*Indian Succession Act.*)
To be issued when, 142, *et seq.*; and how limited, *ib.*

LIMITED GRANTS OF PROBATE OF WILL.—(*Indian Succession Act.*)
When to be issued 142; and how limited, *ib.*; and to an Attorney, when, 144; and may be with exception, when, 146; and of residue of estate, when, *ib.*

LINEAL CONSANGUINITY.—(*Indian Succession Act.*)—*See Descendants.*
What it is, 69.

LOCAL GOVERNMENT.—(*Indian Succession Act.*)
Means what, 65.

LUCKNOW MUNICIPAL COMMITTEE.
Acts relating to, may be extended to other places, 280.

MARRIAGE.—(*Indian Succession Act.*)
Not to operate *per se* to confer rights of property, 65.
Effect of, in case of death and intestacy, 77; and in case of the man and woman having different domiciles, *ib.*
A revocation of a Will, 82; except when Will made under a Power, *ib.*, *et seq.*

MARRIAGE BETWEEN PARSEES.
To be valid on what conditions, 225; legal age of, what, 233; and bigamy unlawful, *ib.*; and punishable, 236.
To be certified and registered, *ib.*
Registrar of, to be appointed, *ib.*
Null and void, under what circumstances, 230; and may be dissolved under what circumstances, *ib.*—*See Divorce.*

MARRIAGE OF CHRISTIANS AND NATIVE CHRISTIANS.
Act relating to, called the Indian Marriage Act, 1865, 15, *et seq.*
As to persons by whom it may be solemnized, 16, *et seq.*; *viz.* Episcopal Clergymen, Scotch Church Clergymen, Marriage Registrars, and Licensed Ministers, *ib.*; but by other persons before the Act made valid, if not otherwise invalid, 18.
Mode of solemnizing it, 18, *et seq.*; if not under the Act of Parliament, or Act 5, or by specified classes of persons, *ib.*; notice to be from, to whom, and in what form, *ib.*; and such notice to be published how, 19; and copy of it to be sent to District Marriage Registrar, 20; and what he is to do with it, *ib.*
Consent to, whose necessary, 21; and may be prohibited by whom, *ib.*
Must be in presence of two witnesses, 22; and within what time after issue of certificate, *ib.*
As to time of day for solemnizing, 23; except under special license, *ib.*; registration of, *ib.*, *et seq.*
See Registration of Marriage.
And Registrar of Marriage.

MARRIAGE REGISTER BOOK.—*See Registrar of Marriages.*

MARRIAGE SETTLEMENT.—(*Indian Succession Act.*)
May be made of Minor's property, 78.

MATRIMONIAL SUITS.—(*Parsees.*)
In what Court to be instituted, 230; under what circumstances for decree of nullity of marriage, *ib.*; when for dissolution, *ib.*; and when for divorce, 231; when for restitution of conjugal rights, 232.
To be tried with closed doors, 233.
To be brought according to Code of Civil Procedure, *ib.*
Questions of law in, to be decided by Judge, *ib.*; of facts by a majority of Jury, *ib.*
Decision in, to be appealable, 234.
As to custody of children, *pendante lite*, *ib.*

MILITARY OFFICERS, COMMISSIONED AND NON-COMMISSIONED.—*See Non-Commissioned Officers.*
Not exempt from serving on Juries on High Court trial in Mofussil, 211, but not to be summoned when, *ib.*

MINISTER OF RELIGION.—*See Marriage of Christians and Native Christians.*
What he is to do before solemnizing marriage, 20; to receive declaration, *ib.*; and issue certificate on what conditions and when, *ib., et seq.*; and what he is to do on receiving notice of prohibition, *ib.*; and what he shall do in case of Native Christians, 22. *See Native Christians.*
MINOR.—(*Indian Succession Act.*)
Domicile of, where, 68; if emancipated, *ib.*; and as to disability of to acquire new domicile, 69.
Property of, may be settled on marriage, 78.
Guardian for, may be appointed by Will, by whom, 79.
Legacy to, when and how to be invested, 166.
MINORITY.—(*Indian Succession Act.*)
What it means, 65.
MOFUSSIL SMALL CAUSE COURTS.—*See Small Cause Courts.*
MONTH.—(*Indian Succession Act.*)
How to be reckoned, 65.
MOOKHTARS.—*See Pleaders and Mookhtars.*
MOVEABLE PROPERTY.—(*Indian Succession Act.*)
What it includes, 65; succession to, how regulated, 66.
MUNICIPAL CESS.—(*N. W. Provinces.*)—*See Rural Police.*
May be levied besides Rural Police Tax on Maafeedars and Nuzeranadars, 5.
NATIVE CHRISTIANS.—*See Marriage of Christians and Native Christians.*
What is to be ascertained respecting them before certificate be issued, 22; and as to form of certificate, *ib*; and its duration, *ib.*
Government may specially license persons to grant certificates of marriage, 29; and on what conditions such certificate may be issued, *ib.*
NEAREST RELATIONS.—(*Indian Succession Act.*)—*See Heirs.*
NEAREST OF KIN, NEXT OF KIN.—(*Indian Succession Act.*)—*See Heirs.*
NEPHEWS.—(*Indian Succession Act.*)—*See Children.*
NIECES.—(*Indian Succession Act.*)—*See Children.*
NOLLE PROSEQUI.—(*High Court Criminal Procedure.*)
To be entered if charge clearly not sustainable, 201: and same as to charges in Punjab Chief Court, 289.
NON-COMMISSIONED OFFICERS AND SOLDIERS.
Minor punishments for light offences may be awarded without Court Martial, 305.
NOTICE OF MARRIAGE.—*See Marriage of Christians.*
Form of, 36.
NUMBER, WORDS OF.—(*Indian Succession Act.*)
How to be understood, 65.
ONEROUS BEQUESTS.—(*Indian Succession Act.*)
Rule as to Bequests involving a burden as well as a benefit, 68.
PARSEE CHIEF MATRIMONIAL COURTS.—*See Parsee District Matrimonial Courts.*
To be established in Presidency Towns, 228; and how composed, *ib.*; limits of jurisdiction of, may be extended, 229.
To be assisted by Delegates, *ib.*; to be appointed for life by Government, *ib.*
Advocates, &c. of High Court to be entitled to practise in, 230.
Rules for, may be made for, by High Courts, 236.
PARSEE DISTRICT MATRIMONIAL COURTS.
As to, 228; limits of, may be altered, *ib.*
To be assisted by Delegates, 229; to be appointed for life by Government, *ib.*
PARSEE INTESTATE SUCCESSION.
Act to define and amend the Law relating to, 276.
How, if widow, or widower and children, *ib*; and how, if children and no widow, *ib.*; or widower and children, 277; and how in case of pre-de-

cease of child, leaving widow or widower and issue, *ib.*; and how, if widow or widower and no lineal descendants, *ib.*; or neither widow or widower nor lineal descendants, *ib.*
Schedules of degrees of relat onship, 278, *et seq.*
PARSEE MARRIAGE AND DIVORCE.
Act so called, 224, *et seq.*; and interpretation of terms in, *ib.*; and offences against, 227, *et seq.*, 235.
See Marriage between Parsees.
PENALTIES FOR OFFENCES AGAINST THE MARRIAGE ACT.
For false oath, declaration, notice, or certificate for procuring marriage, 31.
Forbidding the issue of certificate by false representation, *ib.*
Person not duly authorized solemnizing a marriage, 32.
Solemnizing a marriage at non-legal hours, *ib.*
Solemnizing marriage when either party is a minor, 33.
Registrars issuing certificate or solemnizing marriage without the publication required, *ib.*; and for other persons committing like offence, 34.
Unlicensed person intending to grant certificate of marriage, *ib.*
Destroying or falsifying Register Books, 35.
As to the Courts having jurisdiction to try for such offences, *ib.*
PERSON.—(*Indian Succession Act.*)
This word, how to be understood, 68.
PERSONAL REPRESENTATIVES.—(*Indian Succession Act.*)—*See Representatives.*
PERSONS, CLASS OF PERSONS.—(*Indian Succession Act.*)
As to construction of Bequests to, 92, *et seq.*
PLEADERS AND MOOKHTARS.—*See Agents in Revenue Courts.*
Act to amend Law relating to, 257, *et seq.*; Advocates, Vakeels, and Attornies exempted from its provisions, 271; and not to apply to suitors applying for themselves or co-suitors, 270.
Rules may be made by High Court for admission, &c. of, 259; and only admitted persons to act as Pleaders or Mookhtars, *ib*; except those already qualified, *ib*; and to be enrolled on admission, 260.
To be examined previous to admission, *ib*; and to have certificate of admission, *ib*; on stamp paper, *ib.* which shall remain in force one year, *ib.*; in what form, 274; and stamp to be of what value in the different Courts, 260, *et seq.*; their rights as to practising on enrolment, 261; and penal consequences of practising without certificate, 262.
Liable to suspension, &c., if guilty of fraudulent or grossly improper conduct, *ib*; and on suspension certificate to be delivered up, 264; charges against, how to be prosecuted, 262, *et seq.*; and what in case of acquittal, 263.
Their remuneration to be regulated, 269; but may be fixed by private agreement, 269; but such agreements to be enforced only by regular suit, 270.
Liable to suspension as such if, being Revenue Agents, they are suspended as such, 267, *et seq.*
POLICE.—(*N. W. Provinces.*)—*See Rural Police.*
POSTHUMOUS CHILD.—(*Indian Succession Act.*)
Domicile of, where, 66.
POWERS OF ATTORNEY.—(*Assurances.*)
Time for registering them enlarged, 51.
PRISONERS.—(*High Court Criminal Procedure.*)
Entitled to copies of charges and depositions, and at what price, 200.
PRIVILEGED WILLS.—(*Indian Succession Act.*)
Whose are, 80; how they may be made, 81; and authenticated, *ib.*
Instructions for, when sufficient, 82.
When the privilege ceases, *ib.*
May be revoked, how, 83; and how revived, 84.

PROBATE.—(*Indian Succession Act.*)
What it means, 65.
PROBATE, GRANT OF.—(*Indian Succession Act.*)—*See Grant of Probate.*
PROPERTY.—(*Indian Succession Act.*)
As to construction of Bequests of, 92, *et seq.*
PROVINCE.—(*Indian Succession Act.*)
What it includes, 64.
PUNJAB CHIEF COURT OF JUDICATURE.
Act relating to, 282, *et seq.*; and interpretation of it, 284.
Judges of to rank according to seniority, 284.
To have a Registrar, *ib.*; and an establishment of Clerks, *ib.*; and all Officers to be removeable by Court, &c., 285.
To have a seal, *ib.*; with what all process shall be stamped, *ib.*; seal to be signed, *ib.*
Who may appear in, as suitors, 285.
Pleaders must have license to practise in, *ib.*; and their license may be revoked, *ib.*; and as to their fees, 286.
To have Appellate Jurisdiction, *ib.*; and may remove, suits for trial by itself, *ib.*; from all Courts, 287; except Small Cause Courts, *ib.*; and may call for records from all Courts, in case of exceeding their jurisdiction, *ib.*
Special appeals to be solely to, 287.
Procedure to be according to Code of Civil Procedure, *ib.*
Law of, to be that of local Court in which case might be tried, *ib.*
To have jurisdiction to try European British subjects, *ib.*; who shall be committed to it, 287; and preliminary proceedings against to be sent to, *ib.*
Where to hold its sittings, 289.
May make general rules, 294.
To have superintendence of subordinate Courts, *ib.*
As to powers of, for revision and on appeal, *ib.*; and for superintendence, *ib.*; and as to course to be pursued in case of difference of opinion, 295; when on facts, *ib.*, and when on Law, *ib.*
As to right of parties, plaintiff and attornies to appear in, 296.
To keep Registers, Books of Account, &c.,
PUNJAB COURTS.—*See Punjab Chief Court.*
Act relating to, 248, *et seq.*; its interpretation of words, *ib.*
To be of seven grades, 249; and how constituted, *ib.*; and their names, *ib.*
Their respective jurisdictions, 250.
Suits in what Courts to be instituted, 251; if for immoveable property situate in several Districts, 252; and if the Districts are subordinate to different Commissioners, *ib.*
In what Courts to be instituted for specified causes, if land settlement is in progress, 253.—*See Financial Commissioner.*
RAILWAY AND TRAMWAY CARRIERS.—*See Common Carriers.*
Liability of, not to be limited by notice or contract except as to Scheduled articles, 9, 10.
REFUND OF LEGACY.—(*Indian Succession Act.*)
When it may be required, 168; and when not, *ib.*, *et seq*; when it may be required by creditor, 169; to what extent it may be required, 170; to be without interest, *ib.*
REGISTER OF MARRIAGES.
To be in what form, 23, *et seq.*; and be kept by whom, *ib.*; and Returns of, to be made how often, and by and to whom, 24; and how and by whom in case of Roman Catholics, *ib.*, *et seq.*; and in case of Scotch Church Clergymen, 25; and Church of England Clergymen, *ib.*; and by other Ministers of Religion, *ib.*

Entries in, to be signed, 25; by whom, *ib.*
And to be in what order, *ib.*
Certificate of marriage to be entered in, *ib.*; and when to be taken out, and sent to whom, 26.
In what custody to be, *ib.*; and when to be sent to England, 27.
As to correction of errors in, *ib.*
Right of inspection of and search, 28.
Special Register to be kept in regard to certain classes of Native Christians, 30.

REGISTRAR FOR SMALL CAUSE COURTS IN MOFUSSIL.
May be appointed, 185; and how remunerated, *ib.*; and to be the Chief Ministerial Officer, *ib.*; and as to specified duties, *ib.*
May be invested with specified powers in case of absence of Judge, *ib.*, *et seq.*; and may enter up judgments by confession, 186; and in case of absence of Judge may issue executions, *ib.*, *et seq.*
May be invested with what powers of a Judge, 187; and he may hear and adjudicate under those powers, *ib.*; and no appeal shall be from him, *ib.*; but he may reserve question of Law for Judge, *ib.*

REGISTRAR-GENERAL OF ASSURANCES.
District Registrar may act for during his absence, 52.

REGISTRAR OF MARRIAGE.
As to fees of, 28; must be a Christian, 29.
Forms of his certificate, 27; and of his Register, 38.

REGISTRAR OF PARSEE MARRIAGE.
To be appointed, 226; his duties, *ib.*; his Register to bo open to inspection, *ib.*
As to offences by, 227.

REGISTRATION OF ASSURANCES.
Act to amend Act 16, 1864, relating to, 50.
Where to be, in case of immoveable property situate in more than one District, *ib. et seq.*; and abstracts of assurances relating to immoveable property, to be sent where, 51.

REGISTRATION OF MARRIAGE.—*See Marriage of Christians and Native Christians.*
Necessary in the case of what marriages, 23, *et seq.*; and who to effect it, *ib.*,
See Register of Marriages.
To be made how and by whom in case of Roman Catholics, 24.

REGULATIONS, REPEALED AND EXTENDED. (*Bengal.*)

R. 14		1814 (Vakeels and Native Pleaders) repealed, 273.
„ 7 s. 25		1822 (in Revenue Courts) repealed, *ib.*
„ 9 s.	5 c. 9	1825 (Revenue Courts) repealed, *ib.*
„ 9		1833 (Assessments) extended, 4.

REGULATIONS.—*See Acts and Regulations Extension Act.*
Act for Extension of, 1 *et seq.*

RELATIONS.—(*Indian Succession Act.*)—*See Heirs.*

RELATIONSHIP, WORDS OF.—(*Indian Succession Act.*)
Apply only to legitimate relations, 94.

RELIGIOUS OR CHARITABLE USES.—(*Indian Succession Act.*)
Bequests for, when valid and when void, 75.

RE-MARRIAGE OF PARSEES.
Unlawful during life-time of first husband or wife, 225; except in what cases, *ib.*

REPRESENTATIVES, LEGAL REPRESENTATIVES, PERSONAL REPRESENTATIVES, EXECUTORS OR ADMINISTRATORS.—(*Indian Succession Act.*)
Bequest to, of a person, how to be carried out, 91, *et seq.*

RESIDUARY BEQUESTS.—(*Indian Succession Act.*)
Rules as to construction of, 96, *et seq.*; when to be invested, 165.

RESIDUARY LEGATEE.—(*Indian Succession Act.*)
When entitled to administration of Will, 140.
RESTITUTION OF CONJUGAL RIGHTS.—(*Parsees.*)
Suit for, when it may be instituted, 232, *et seq.*
RETURNS OF MARRIAGES OF CHRISTIANS.
Forms of, 38, *et seq.*
REVENUE COURTS, AGENTS IN.—*See Agents in Revenue Courts.*
REVENUE COURTS.—(*Oude.*)
Act to remove doubts as to jurisdiction of, 238, *et seq.*
Retrospective jurisdiction given to, in certain suits, barred by limitation of time, 241.
REVOCATION OF WILL.—(*Indian Succession Act.*)—*See Will.*
RIGHT HEIRS.—(*Indian Succession Act.*)—*See Heirs.*
ROMAN CATHOLICS.—*See Marriage Act.*
Excepted out of Part 5 of Act 5, 1865, (*Marriage Act*), 31.
RULES FOR SMALL CAUSE COURTS.
May be made by Local Government, for what purposes, 184.
RURAL POLICE.—(*N. W. Provinces.*)
Act for the better maintenance of, 3; may be extended by Governor and by Governor-General, *ib*
House-tax on occupiers established for support of, *ib.*; at what rate, *ib.*; and what to be deemed a house, *ib.*; and assessment when to fall due, 4; and how realized, *ib.*
Proprietors may be assessed to, *ib.*; at what rate, 5; and for what estates, *ib.*; time for payment to be fixed by Government, *ib.*
SCOTCH CHURCH CLERGYMEN.—*See Marriage of Christians and Native Christians.*
SENTENCES.—(*Punjab Chief Court.*)
Not to require confirmation, nor to be passed in any particular form, 291.
SENTENCES ON CIRCUIT.—(*High Court.*)
By High Court Judge, not to require confirmation, 212; nor to be passed or recorded in any particular form, *ib.*
SHERIFF OF CALCUTTA.
Act for his indemnification, 48; may be extended to Bombay and Madras, 49.
Act to transfer Great Gaol from, to a Government Officer, 192, *et seq.*
Commitments not to be to, 172, *et seq.*
No writ or warrant for arrest of any offender to be directed to, *ib.*
SMALL CAUSE COURTS IN THE MOFUSSIL.
Act to consolidate and amend the Law relating to, 175, *et seq.*; how to be interpreted, *ib.*; suits pending in, to be subject to Act 11, 1865, 176.
May be established by Government, 176; to have a seal, 177; and be held at places to be appointed by Government, *ib.*
What suits as respects matter cognizable by, *ib.*; and what not, *ib.*; but Government may extend jurisdiction of, *ib.*; and to what amount, *ib.*; and what suits, as respects the person of the defendant, 178.
Jurisdiction of, as respects Corporations and Companies, *ib.*; and as respects Government, *ib.*; and the Secretary of State, *ib.*
Process of, how to be served, *ib.*
To have exclusive jurisdiction of suits cognizable by, 179; save as to specified Courts, &c., *ib.*
Judges of, what to be, and how appointed, *ib.*: may go on Circuit, 180.
Any person may temporarily be appointed Judge of, &c., *ib.*; and exercise contemporaneous jurisdiction with permanent Judge, *ib.*; and how to be remunerated, 181.
Procedure of, to be by summons, *ib.*; for final disposal, *ib.*; and when decree passed, execution may be ordered on verbal application, *ib.*; and decree may be executed by warrant; and against what property, *ib., et seq.*

Decrees of to be final, 182; saving certain right to defendant, after *ex parte* decree, on conditions specified, *ib.*; and Court may grant new trial, *ib.*; and specified questions arising may be referred to High Court, 183; and decree to be on its opinion, *ib.*
See High Court.
Procedure of, when Court is composed of two Judges, in case they differ on point of Law, 184; and in case they differ as to other matter, 185.
Rules may be made for by High Court, 188.
To comply with requisition of local Governments for records, returns, &c., 190.
SPECIAL JURY.—(*Presidency Towns.*)—*See Challenges.*
All persons charged with capital offence, to be tried by, 201; and so, on any other charge, if Court orders, *ib.*
Panel of, to consist of 36 persons, 203.
SPECIAL JURY LIST OR BOOK.
To contain 200 Jurors, 202, persons on this List exempt from Common Jury List, *ib.*
To be prepared by Clerk of the Crown or other Officer directed by the C. J., 202; according to his discretion, 203.
SPECIFIC LEGACIES.—(*Indian Succession Act.*)—*See Demonstrative Legacy.*
What are, 117; and the distinctions among them, 118; *et seq.*
When the property comprised in, shall be sold, 120.
Do not abate with general legacies, *ib.*
How a specific differs from a demonstrative legacy, 121.
As to the ademption of, 121; and when adeemed, 122, *et seq.*
STAMP DUTIES.
Act X, 1862, relating to amended, 246.
STAMP DUTIES.—(*Indian Succession Act.*)
Established, and what, 171, 173.
STATE PRISONERS.
May be committed to Presidency Jail, 194.
STOCK, COMMON STOCK.—(*Indian Succession Act.*)
Means common ancestor, 69; and as to how degrees of relationship to, are computed, 69, *et seq.*
SUPERINTENDENT OF THE PRESIDENCY GAOL.
Prisoners under sentence to be delivered to, with warrant, 193; whether sentence be capital punishment or any other, *ib.*; and whether sentence be by High Court or a Magistrate, *ib.*
To detain prisoners according to the exigency of the warrant, *ib.*
Prisoners under Civil process to be delivered to, 194, and shall be detained by, *ib.*
State prisoners to be committed to, 194.
TAHSILDAR, COURT OF.—*See Central Provinces Courts.*
His representation defined, 217.
TAHSILDAR, COURT OF.—(*Punjab.*)
Act respecting, 249, *et seq.*
VAKEELS.—*See Advocates, Vakeels, and Attornies.*
VILLAGE WATCHMEN.—(*N. W. Provinces.*)—*See Rural Police.*
To be nominated by whom, 5; and appointed by whom, 6; and to have what duties, *ib.*; and be subject to what penalties, *ib.*
VOID REQUESTS.—(*Indian Succession Act.*)
Under what circumstances bequest is void, 100, *et seq.*; when made to a person not in existence, *ib.*; when time of vesting is postponed beyond allowed period, 102.
WARRANTS OF ATTORNEY TO CONFESS JUDGMENT.
Act to give effect to, in High Court, 298, *et seq.*
Powers of High Court in rotation to, *ib.*
WASTE.—(*Indian Succession Act.*)
Executor or Administrator when liable to make good the loss from, 171, and for what kind he is liable, *ib.*

WIDOW.—(*Indian Succession Act.*)
Her interest in case of intestacy, 72, if there be lineal descendants, or if there be not, *ib.*
WIFE.—(*Indian Succession Act.*)
Domicile of, where, 68, and as to its continuance, *ib.*
Interest of, in husband's estate, in case of intestacy, 72.
WILL —(*Indian Succession Act.*)
What it means, 65.
WILL AND CODICIL, PRIVILEGED WILLS.—(*Indian Succession Act.*)
May be made by what persons, 78; void when, 79; may be revoked when, *ib.*
How to be executed, 80; and documents referred to in it, to be regarded as part of, when, *ib.*; and to be attested, how, *ib.*
Legatee under Will not to lose legacy by attesting Codicil, 82.
How it may be revoked, 83.
Obliteration, interlineation, &c., of, to have what effect, and when, *ib.*
Rules for the construction of, 84, *et seq.*; wording of may be how, *ib.*; may be explained by reference to outside facts, when, 85; errors in description, what kind immaterial, *ib.*; context may be used to supply defects, when, 86; and rule as to property, when description is partially inapplicable, *ib.*; as to explanation of ambiguity, *ib.*; as to identification of property, *ib.*
Meaning of, how to be collected, 88; and as to construction of General words, *ib.*; as to rejection of part of, 89; same words in, to be read in same sense, *ib.*; as to rule, if different parts are irreconcilable, *ib.*; bequest in, void if of uncertain meaning, 90; to be construed as speaking from death of Testator, *ib.*; extends to property disposable under Power, *ib.*
To whom Probate of, to be granted, 137.
Probate of, essential to constitute right of executor, 138.
As to administration with copy of, 139.
As to who may be admitted to prove, *ib.*
And when residuary legatee may prove, *ib.*; and his representatives, when, 140.
Limited administration of, to be granted, when, 142.
To be preserved among records, 154.
WITNESSES.—(*Indian Succession Act.*)—*See Will, Attesting Witnesses.*
WRIT AND WARRANT.—(*High Court, Calcutta.*)
For arrest of offender not to be directed by High Court to Sheriff.
YEAR AND MONTH.—(*Indian Succession Act.*)
How to be reckoned, 64.

ACTS AND REGULATIONS EXTENSION ACT.

ACT No. I. OF 1865.

[*Received the assent of the G. G. on the 7th January* 1865.]

Recites expediency of authorizing the Executive Governments to extend Regulations to Non-Regulation parts.

1—3. Authorizes the Government of India and (2) Lieutenant-Governor of North-Western Provinces and Lieutenant-Governor of Punjab to extend Acts and Regulations to their Provinces, by notification in Official Gazette; and (3) to define by whom powers shall be exercised, &c.

4. From date of extension all anterior Regulations repugnant, &c., to the same to cease to have effect.

5. Short title of Act as above.

Preamble.

WHEREAS it is expedient to authorize the Governor-General of India in Council and the Lieutenant-Governors of the North-Western Provinces and the Punjab, to extend to Non-Regulation Provinces under the immediate administration of the Government of India, or under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Punjab respectively, certain Acts and Regulations in force at the time of the passing of this Act in parts of British India subject to the General Regulations; It is enacted as follows:—

Governor-General in Council may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

1. From and after the passing of this Act, it shall be lawful for the Governor-General of India in Council, from time to time, by notification in the Gazette of India, to extend to any Non-Regulation Province under the immediate administration of the Government of India the operation of any Act or Regulation, or of any portion of any Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Lieutenant-Governors of North-Western Provinces and Punjab may extend to certain Non-Regulation Provinces Acts and Regulations not in force there at the passing of this Act.

2. From and after the passing of this Act, it shall be lawful for the Lieutenant-Governor of the North-Western Provinces as to the Non-Regulation Provinces under his government, and for the Lieutenant-Governor of the Punjab as to the Territories under his government, by notification in the Official Gazette, to extend to such Provinces and Territories respectively the operation of any Act or Regulation of the Government of India, or of any portion of any such Act or Regulation, in force at the time of the passing of this Act in any part of British India subject to the General Regulations.

Power to direct by whom the powers incident to the provisions applied under this Act shall be exercised.

3. Whenever the operation of any Act or Regulation or of any portion of any Act or Regulation shall be extended under either of the last two preceding Sections, the Governor-General of India in Council or the Lieutenant-Governor making such extension, may direct by whom any powers or duties incident to the provisions applied under such Section shall be exercised or performed, and may make any order which shall be deemed requisite for carrying such provisions into operation.

Repeal of inconsistent Rules.

4. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to the enactment whose operation shall have been so extended, shall cease to have effect in such Territories.

Short title.

5. This Act shall be called "The Acts and Regulations' Extension Act, 1865."

GOVERNMENT OF THE RURAL POLICE—N. W. PROVINCES.

ACT No. II. OF 1865.

[*Received the assent of the G. G. on the 7th February* 1865.]

Recites expediency of providing for the better maintenance of the Rural Police.

1. As to interpretation of words of number.

2—3. Proprietor of estate may assess house tax not exceeding one rupee per annum on every house on his estate; and (3) may collect the tax with his rent, in advance &c.; subject to Act X, 1859, s. 23, c. 3, for unlawful assessments.

4. Extends Reg. IX, 1833, ss. 12, 13, 14, 15, to assessments under this Act.

5. Gives persons aggrieved remedy by petition.

6—7. Authorizes Collector to assess proprietors to extent of the house assessments, less 10 per cent., irrespective of Municipal assessments, and (7) may alter such assessment with sanction of Government.

8—9. This Act to apply to Maafee and Nuzerana estates, which may be assessed, at what rate, to a Municipal cess; and (9) times of payment and amount of instalments to be fixed by Government.

10. Assessments to be applied to Village Police, &c., under order of Government.

11—12. Proprietors to nominate, and Magistrate appoint, village watchmen, &c.; (12) whose duties shall be what.

13—15. Empowers Lieut.-Governor to extend this Act to any part of North-Western Provinces, except as to villages under Act XX, 1856; and (14) Governor-General in Council may extend it to Punjab, with same exception, and (15) from date of extension all rules inconsistent with Act to cease to have operation.

Preamble.

WHEREAS it is expedient to provide for the better maintenance of the Rural Police in the Territories under the government of the Lieutenant-Governor of the North-Western Provinces and elsewhere; It is enacted as follows:—

"Number."

I. In this Act the singular number includes the plural, and the plural number includes the singular.

Proprietors of estates in Districts affected by this Act may assess and collect house tax.

II. The proprietor of any estate situated in any District to which the provisions of this Act may be extended, shall have authority to assess and collect, for the purposes of this Act, a sum not exceeding one Rupee per annum from the occupant of every house upon such estate. It shall be competent to the Collector of the District, acting under the orders of the Local Government, to determine what buildings shall be held to be a separate house for the purposes of this Act.

III. The sum so assessed shall be held to fall due, in advance for the coming Revenue year, with the first instalment of agricultural rents payable in the vicinity in that year, and may be realized under the law for the time being in force in such vicinity relating to the recovery of rent. Provided that no person shall be liable to be ousted from his house for non-payment of any assessment leviable under the last preceding Section. Complaints against proprietors for unlawful collection of such assessments shall be treated as falling under Clause three, Section twenty-three, Act X of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*).

Assessments to be due annually with first instalment of rent.

IV. Sections twelve, thirteen, fourteen, and fifteen of Regulation IX of 1833 (*to modify certain portions of Regulation VII of* 1822, *and Regulation IV of* 1828 ; *to provide for the more speedy and satisfactory decision of Judicial questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations ; for enforcing the production of the village accounts ; for the more extensive employment of Native agency in the Revenue Department ; and to declare the intent of Section V, Regulation VII of* 1822, *touching claims to Malikana*), shall be applicable to assessments under this Act.

Regulation IX of 1833, Sections 12 to 15, to apply.

V. Any person assessed under Section two of this Act may, by petition on unstamped paper, complain to the Collector of the District against such assessment, on the ground of inability to pay the same; and the Collector shall be competent to abate, or wholly to remit, the assessment, if he shall be of opinion that the circumstances of the complainant render such abatement or remission proper.

Persons assessed may petition against assessment, and Collector may abate or remit same.

VI. It shall be lawful for the Collector or for any Officer making Settlements of Land Revenue, to assess upon any estate, as aforesaid, a sum to be contributed yearly by the proprietor for the purposes of this Act, not exceeding the aggre-

Collector may assess yearly contribution for purposes of this Act.

gate of the house assessments in any such estate, less ten per cent. Such assessment shall be over and above any Municipal cess or percentage levied on the Land Revenue for similar purposes.

Such assessment may from time to time be altered.

VII. The sum so assessed shall, subject to the sanction of the Local Government, be liable to be altered from time to time in conformity with the foregoing provisions.

Act to apply to Maafee and Nuzerana estates.

VIII. The provisions of this Act shall be applicable to Maafee and Nuzerana estates. Besides the assessments made by the Collector under Section six of this Act, it shall be lawful to levy upon the Maafeedars, or (where a sub-settlement shall have been made) on the sub-proprietors, or on the Nuzeranadars, a Municipal cess not exceeding two Rupees twelve annas per cent. of the jumma at which their estates would have been rated if not held under a Maafee or Nuzerana title.

Government to determine how and when assessments to be paid.

IX. The Local Government may determine by what instalments and at what times, the assessments payable under Sections six and eight shall be paid. Any arrear of such assessments may be realized by the same processes and under the same rules as arrears of Land Revenue.

Application of assessments.

X. Assessments realized under this Act shall be appropriated, under the orders of the Local Government, to the payment of the Village Police or to any other purpose connected therewith. Any surplus that may remain shall be at the disposal of the Local Government for sanitory purposes, or any other purpose of general improvement within the District in which the amount is collected.

Persons empowered to nominate Village Watchmen shall do so within fifteen days after occurrence of vacancy.

XI. Every proprietor or other person, in whom the right of nomination of Village Watchmen is vested, shall nominate a fit and proper person within fifteen days of the occurrence of any vacancy in the office of Watchman on

his estate; and the person so nominated shall after due enquiry be appointed or rejected by the Magistrate of the District at his discretion, or by any Officer authorized by him in that behalf. In default of a nomination within fifteen days of the occurrence of a vacancy or of the rejection of a nominee, the proprietor or other person in whom the right of nomination is vested shall be held to be guilty of disobedience to lawful authority, and shall be liable, by order of the Magistrate, to a fine not exceeding Rupees fifty, and in default of payment to imprisonment in the Civil Jail for a period not exceeding one month; and the Magistrate of the District shall proceed to appoint a person to the vacancy.

Village Watchmen to perform duties of Policemen under Act V of 1861, in addition to his other duties.

XII. Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V of 1861, (*for the Regulation of Police*); and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer subject to the provisions of such Act, and guilty of neglect or disobedience, as the case may be.

Power to Government of North-Western Provinces to extend this Act.

XIII. The Lieutenant-Governor of the North-Western Provinces may extend the provisions of this Act to any part of the Territories within his jurisdiction. Provided that this Act shall have no operation in any village to which Act No. XX of 1856 (*to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars, in the Presidency of Fort William in Bengal*), or any other special Municipal Law shall have been extended, so long as such Act or Law shall continue in force in such village.

Power to Governments of India and of the Punjab to extend this Act.

XIV. Subject to the proviso contained in the last preceding Section, the Governor-General of India in Council may extend the provisions of this Act to any Province under the immediate

administration of the Government of India. Subject to the like proviso, the Lieutenant-Governor of the Punjab may also extend the provisions of this Act to any part of the Territories under his government.

Repeal of inconsistent Rules.

XV. From the date of any such extension, so much of any Rule having the force of law which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with or repugnant to this Act, shall cease to have effect in such Territories.

THE CARRIERS' ACT.

ACT No. III OF 1865.

[*Received the assent of the G. G. on the* 14*th February* 1865.]

Recites expediency of enabling Common Carriers to limit their liability, and of defining their liability, &c.

1. Name of Act—"THE CARRIERS' ACT, 1865."

2. Interprets words—Common Carrier; Person; and nouns of Number.

3—5. Relieves Carrier of liability for loss or damage to scheduled property of more than 100 rupees, unless value declared; and (4) Carrier may charge higher rates for such property, if notice given in prescribed manner; and (5) is to return money paid for carriage, where liability for loss attaches.

6—7. As to descriptions of property not named in Schedule, Carrier's liability not to be limited by public notice, but may be by special contract except of Carriers under Act XXII, 1863; who (7) shall be liable only for loss or damage caused by negligence, or a criminal act of themselves or servants.

8—9. Saves liability of all Carriers in all cases for loss or damage arising from negligence, or criminal act of the Carrier or his servants; and (9) in actions against Carriers, plaintiff needs not prove the loss to have been by negligence or criminal act.

10. Nothing in this Act to affect Act XVIII, 1854, ss. 9, 10, 11.

SCHEDULE.

Preamble.

WHEREAS it is expedient not only to enable Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried,

but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows:—

Short Title.

I. This Act may be cited as "The Carriers' Act, 1865."

Interpretation Clause.

II. In this Act, unless there be something repugnant in the subject or context—

"Common Carrier."

"Common Carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately.

"Person."

"Person" includes any association or body of persons, whether incorporated or not.

Number.

Words in the singular number include the plural, and words in the plural include the singular.

Carriers not to be liable for loss of certain goods above 100 Rupees in value, unless delivered as such.

III. No Common Carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred Rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such Carrier or his agent the value and description thereof.

For carrying such property, payment may be required at rates fixed by Carrier.

IV. Every such Carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred Rupees and of the description aforesaid, at such rate of charge as he may fix: Provided that, to entitle such Carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

Proviso.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject	Number and date.	Where published.
1	2	3	4	5	6	7
1884	III	Municipalities.	47	Provident Fund Rules for the following Municipalites (*contd.*) :—		
				Dhulian ...	1341, 28 4 1914	Not published.
					4018, 1 9 1921	Ditto.
				Dinajpur ...	261, 13 5 1918	Ditto.
				Dum-Dum, South ...	1441, 19 5 1914	Ditto.
				English Bazar ...	1813, 4 7 1914	Ditto.
					1665, 12 9 1917	Ditto.
					337, 23 5 1918	Ditto.
					538, 7 6 1918	Ditto.
				Faridpur ...	664, 9 3 1914	Ditto.
					1331, 8 6 1915	Ditto.
					1480, 27 6 1918	Ditto.
					1981, 19 8 1918	Ditto.
					2059, 29 7 1919	Ditto.
				Garden Reach ...	1468, 15 8 1917	Ditto.
					449, 12 2 1918	Ditto.
					1123, 18 4 1918	Ditto.

by negligence or a criminal act on his part or on that of his agents or servants.

Common Carrier liable for loss or damage caused by neglect or fraud of himself or his agent.

VIII. Notwithstanding anything hereinbefore contained, every Common Carrier shall be liable to the owner for loss of or damage to any property delivered to such Carrier to be carried where such loss or damage shall have arisen from the negligence or criminal act of the Carrier or any of his agents or servants.

Plaintiffs, in suits against Common Carriers, for loss, damage, or non-delivery, not required to prove negligence or criminal act.

IX. In any suit brought against a Common Carrier for the loss, damage, or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage, or non-delivery was owing to the negligence or criminal act of the Carrier, his servants or agents.

Saving of provisions of Sections 9, 10, and 11 of Act XVIII of 1854.

X. Nothing in this Act shall affect the provisions contained in the ninth, tenth, and eleventh Sections of Act No. XVIII of 1854 (*relating to Railways in India*).

SCHEDULE.

Gold and Silver Coin.

Gold and Silver in a manufactured or unmanufactured state.

Precious Stones and Pearls.

Jewellery.

Time Pieces of any description.

Trinkets.

Bills and Hundis.

Currency Notes of the Government of India, or Notes of any Banks, or Securities for payment of money, English or Foreign.

Stamps and Stamped paper.

Maps, Prints, and Works of Art.

Writings.

Title Deeds.

Gold or Silver Plate or Plated articles.
Glass.
China.
Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
Shawls and Lace.
Cloths and tissues embroidered with the precious metals or of which such metals form part.
Articles of ivory, ebony, or sandal-wood.

ADMINISTRATOR GENERAL'S ACT.

ACT No. IV. OF 1865.

[*Received the assent of the G. G. on the 22nd February* 1865.]

Recites provisions of Act VIII, 1855, and Section 21 of the Regimental Debts Act, 1863.

1. Interprets words "Officer," "Soldier."

2. Act VIII, 1855, Section 26, not to apply to specified cases, and Administrator General not to have his commission on funds previously administered in respect of preferential charges.

3. Act named the "ADMINISTRATOR GENERAL'S ACT, 1865."

Preamble.

WHEREAS under or by virtue of the twenty-sixth Section of Act No. VIII of 1855 (*to amend the Law relating to the Office and Duties of Administrator-General*), the Administrator-General of each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay is entitled to receive a commission at the rates respectively therein mentioned upon the amount or value of the assets which he shall collect and distribute in due course of administration; And whereas by the twenty-first Section of "The Regimental Debts Act, 1863," it is declared that an Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on the property of an Officer or Soldier dying on service exceeding three *per-centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount

remaining in his hands after payment by him of preferential charges, as the case may be; It is enacted as follows:—

I. In this Act—

Interpretation Clause. "Officer."

The term "Officer" means a Commissioned Officer of Her Majesty's Army or of Her Majesty's Indian Army.

"Soldier."

The term "Soldier" means a Soldier of Her Majesty's Army or European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

Act VIII of 1855, Section 26, not to apply to property of Officers and Soldiers dying on service which shall come to hands of Administrator-General.

II. From and after the passing of this Act, the twenty-sixth Section of Act No. VIII of 1855 shall not apply to cases in which the property of an Officer or Soldier dying on service shall come to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth Section of "The Regimental Debts Act, 1863;" and such Administrator-General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of this Act, if preferential charges, as defined by the fourth Section of the said Statute, have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Administrator-General only entitled to a commission of three per cent. on gross amount of such property.

Short Title.

III. This Act shall be called "The Administrator-General's Act, 1865."

THE INDIAN MARRIAGE ACT, 1865.

ACT No. V. OF 1865.

[*Received the assent of the G. G. on the* 23*rd February* 1865.]

Recites expediency of providing a further marriage law for Christians.

1—3. Preliminary. Name of the Act, the "INDIAN MARRIAGE ACT 1865" (2) Act to commence on 1st May 1865, and extend to all territories vested

by 21 and 22 Vic. c. 106; and (3) repeals Act XXV, 1864, from 1st May 1865.

4. Interpretation of the terms Church of England, Anglican, Church of Scotland, Church of Rome, Roman Catholic, Church, Minor, Native Christians, Section, Month, Year, Local Government.

PART I.—*As to persons by whom Marriage may be solemnized*—5—10.

5—6—9. Directs by what persons marriage may be solemnized; viz., (6) episcopally ordained Ministers, Scotch Church Clergymen, Marriage Registrars, Licensed Ministers; and (9) makes void all marriages not solemnized according to this Act.

7. Dispenses with the Declaration and Certificate required by 58 Geo. 3, c. 84 and Act XXIV. 1860.

8. Authorizes Local Governments to grant licenses to Ministers to solemnize marriage.

9. *Supra.*

10. Gives validity to marriages solemnized before 1st May, by certain persons not legally competent.

PART II.—*As to the mode of solemnizing Marriages under this Act,* 11—27.

11—18. In all marriages under the 14 and 15 Vic. c. 40 or Act V, 1852, or by episcopally ordained, or Scotch Church Clergyman, or by licensed person, notice in Form A. of Schedule shall be given, to whom, stating what, &c.; which notice (12) shall be published, where and how, and (13) what is to be done with it if the marriage is to be in private dwelling; and (14) if one of the persons be a minor to be sent to District Marriage Registrar; or (16) Senior District Marriage Registrar, who (15) shall do what with it; which notice (17) shall, if required, be certified, &c.; but (18) certificate not to be issued for 14 days if one party be a minor.

19. Declaration to be made before issue of certificate, that there is no legal impediment, &c., to marriage.

20—22. Consent of parent or guardian necessary in case of minor not being a widow or widower; and (21) person whose consent is necessary may prohibit the marriage; and (22) after prohibition case to be examined, &c.

23—24. Special proceeding in case of Native Christians, and (24) form of certificate to be issued.

25—26. Authorizes the marriage, but in presence of two witnesses, and (26) within two months.

27. Saves from these regulations marriages under Part I of this Act.

PART III.—*As to time for solemnizing Marriages.*

28. To be solemnized only between 6 A. M. and 7 P. M., except by special license, or by Roman Catholic priests under general or special license.

PART IV.—*As to the Registration of Marriages in India,* 29—46.

29—34. All marriages, except under Act of Parliament, or Act V, 1852, to be registered, but defect of registration not to invalidate marriage; (30) how by Church of England Clergymen; who (31) are to make specified returns to Registrar of Archdeaconry; and (32) how and by whom in case of marriage by Roman Catholic priests, and as to returns; and (33) save as to marriages by Church of Scotland Clergymen; and (34) save as to marriages by episcopally ordained persons who have no official charge.

35—38. Entries in Register Book to be signed and attested; and (36) certificate to be sent to the District or Senior Registrar, who shall keep copy; (37) such copies to be filed with number of by Marriage Registrar, and (38) sent to Local Government.

39—43. Directs as to custody of original Register Book; and (40) as to transmission of returns of certain marriages to England; and (41) provides for correction of errors; and (42) for the right of making searches and obtaining copies; and (43) as to appropriation of fees.

44. Makes certified copies proof for, &c.

45. Saves from operation of this Part, registers or certificates of marriages not under this Act.

46. Christians alone to be appointed Marriage Registrars, under this Act.

PART V.—*As to the Marriage of Native Christians,* 47—53.

47—50. Authorizes Government to license persons to grant certificates for marriages; and (48) certificate shall be granted, if (1) the man be sixteen, the woman thirteen years of age, and (2) they are not within the prohibited degrees of consanguinity, (3) and are single, and (4) make prescribed marriage declaration, (5) between 6 A. M. and 7 P. M.; and (49) certificate, &c., obtained, being signed, shall be conclusive evidence of such marriage; and (50) all marriages so performed shall be valid.

51—52. Register book of such marriages to be kept, and (52) copies of entries to be given.

53. These Rules not to apply to marriages between Roman Catholics.

PART VI.—*As to Penalties,* 54—63.

54—63. Extends Indian Penal Code, s. 193, to false oath, declaration, notice or certificate for purpose of procuring marriage; and (55) Indian Penal Code. s. 105, to assuming to forbid marriage knowingly without personal right; and

(56) Indian Penal Code, s. 105, to unauthorized persons solemnizing marriage; and (57) to solemnizing marriage at other than legal hours or without witnesses; (except (58) under license from Church authority), and (59) to solemnizing marriage of minor, and (60) to Registrars for issuing certificates of marriage without compliance with the provisions of Act; and (61) to authorized persons, not being clergymen, &c., solemnizing marriage, without previous notice, or after certificate has expired, or issuing certificate after marriage has been legally forbidden; and (62) to unlicensed person issuing certificate; and (63) to offences against Register Book.

64—66. Extends Code of Criminal Procedure to offences, and (66) all proceedings under this Act, saving (64) rights of European British subjects; and gives Supreme Court of Judicature in Straits Settlements jurisdiction as to all offences under this Act.

SCHEDULES.—A. Notice of Marriage. B. Registrar's Certificate. C. Form of Register of Marriages. D. Ditto under Section 34.

Preamble.

Whereas it is expedient to provide further for the solemnization of marriages in India of persons professing the Christian Religion; It is enacted as follows:—

Preliminary.

Short Title.

I. This Act may be cited as "The Indian Marriage Act, 1865."

Extent and commencement of Act.

II. This Act shall extend to all the Territories that are or shall become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," and shall commence and come into operation on the first day of May 1865.

Act XXV of 1864 repealed.

III. From and after the commencement of this Act, Act No. XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) is repealed except as to the recovery and application of any penalty for any offence which shall have been committed before such commencement.

Interpretation clause.

IV. In this Act, unless there is something repugnant in the subject or context—

"Church of England."

"Anglican."

"Church of England" and "Anglican" mean and apply to the United Church of England and Ireland as by law established.

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established.

"Church of Rome." "Roman Catholic."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head.

"Church."

"Church" shall include any Chapel or other building generally used for public Christian worship.

"Minor."

"Minor" means a person who has not completed the age of twenty-one years.

"Native Christians."

"Native Christians" includes the Christian descendants of Natives of India converted to Christianity as well as such converts.

"Section."

"Section" means a Section of this Act,

"Month" "Year."

"Month" and "Year" respectively mean month and year reckoned according to the British calender.

"Local Government."

And, in any part of British India in which this Act shall operate, "Local Government" shall mean the person authorized to administer Executive Government in such part.

Part I.

As to the Persons by whom Marriage may be solemnized.

Marriage between Christians to be solemnized according to the provisions of this Act.

V. From and after the commencement of this Act no marriage between persons, one or both of whom shall profess the Christian Religion, shall be solemnized, unless in accordance with the provisions of the next following Section.

By whom to be solemnized.

VI. Marriages may be solemnized in India—

1.—By any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which such person is a Minister.

2.—By any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland.

3.—By, or in the presence of, a Marriage Registrar under the provisions of the Statute 14 and 15 Vic., cap. 40, or of Act V of 1852 (*for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty intituled an Act for Marriages in India*) of the Governor-General of India in Council.

4.—By any Minister of Religion who, under the provisions of this Act, has obtained a license to solemnize marriages.

5.—By any person who, with respect to marriages between Native Christians, shall have received, under the provisions of Part V of this Act, a license to grant certificates of marriage.

Declaration and certificate no longer required.

VII. From and after the commencement of this Act, the declaration and certificate required by the Statute 58 Geo. III, cap. 84, and Act XXIV of 1860 (*for the solemnization of marriages in India by ordained Ministers of the Church of Scotland*) of the Governor-General of India in Council, shall be no longer required.

Licenses to solemnize marriage by whom to be granted.

VIII. From and after the commencement of this Act the Governor-General of India in Council, the Governors of Madras and Bombay in Council, the Governor of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Lieutenant-Governors of Bengal, the North-Western Provinces and the Punjab, shall have authority to grant licenses to Ministers of Religion, to solemnize marriages within the Territories under the immediate administration of such Governor-General, or subject to such Governors and Lieutenant-Governors respectively, and to revoke such licenses, whether they shall have been granted before or shall be granted after the passing of this Act.

Marriages solemnized otherwise than according to this Act to be void.

IX. From and after the commencement of this Act, all marriages which shall be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth Sections shall be null and void.

Marriages solemnized before first May 1865 by certain persons to be deemed valid.

X. All marriages which shall have been selemnized in India before the commencement of this Act by persons who have not received episcopal ordination, or who have not otherwise received express authority to solemnize such marriages under Acts of Parliament or Acts of the Governor-General of India in Council, shall, if not otherwise invalid, be deemed valid to all intents and purposes.

PART II.

As to the Mode of solemnizing Marriages under this Act.

Notice of intended marriage.

II. In every case of intended marriage between persons, one or both of whom shall profess the Christian Religion, otherwise than—

I.—Under the provisions of the said Statute 14 and 15 Vic., cap. 40, or of the said Act V of 1852: or

II. By a Clergyman who has received episcopal ordination, according to the rites, rules, ceremonies and customs of the Church to which he belongs: or

III. By a Clergyman of the Church of Scotland, according to the rites, rules, ceremonies and customs of that Church: or

IV. By a person who has received a license to grant certificates of marriage between Native Christians under the provisions of Part V of this Act—

One of the persons intending marriage shall give notice in writing according to the form contained in the Schedule A to this Act annexed or to the like effect, to the Minister of Religion whom he or she shall desire to solemnize the marriage, and shall state therein the name or names, and the profession or condition, of each of the persons intending marriage, the dwelling place of each of them, and the time (not being less than four days) during which each has dwelt there, and the Church or private dwelling in which the marriage is to be solemnized. Provided that if either of such persons shall have dwelt in the place stated in the notice during more than one month, it may be

Proviso.

stated therein that he or she has dwelt there one month and upwards. Provided also that at any place or Station where there is a Church, no Clergyman of the Church of England shall solemnize a marriage in a private dwelling or in any place except in such Church, unless he shall have received a special license authorizing him to do so from and under the hand and seal of the Anglican Bishop of the Diocese, or from the Commissary of such Bishop. For such special license the Registrar of the Diocese shall be entitled to charge such additional fee as the same Bishop may sanction.

Publication of such notice.

XII. The Minister of Religion to whom such notice shall have been delivered, if he shall be entitled to officiate in the Church in which it is intended to solemnize the said marriage, shall publish every notice of marriage received by him, by causing the same to be published and affixed in some conspicuous part of the same Church. If such Minister of Religion shall not be entitled to officiate as a Minister in such Church, he shall at his option either return the said notice to the person delivering the same to him, or shall deliver the same to some other Minister entitled to officiate therein, who shall thereupon cause the same to be so published and affixed as aforesaid.

Notice of intended marriage in private dwelling.

XIII. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion on receiving the notice prescribed in the eleventh Section shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own Office.

Notice when one of the persons intending marriage is a minor.

XIV. When one of the persons intending marriage (not being a widow or widower) is a minor, every such Minister as aforesaid who shall receive such notice, and who shall not forthwith return it to the person delivering the same under the twelfth Section shall, within twenty-four hours after the receipt by him thereof, send or cause to be sent by the Post, or

otherwise, a copy of such notice to the Marriage Registrar of the District.

Publication of such notice.

XV. The Marriage Registrar of the District on receiving any such notice shall affix the same to some conspicuous place in his own Office.

Appointment of Senior Marriage Registrar.

XVI. If there be more Marriage Registrars than one in any District, the Local Government shall appoint one of such Registrars to be Senior Marriage Registrar, and such notice as aforesaid shall be sent to such Senior Marriage Registrar, who, on receiving the same, shall, besides affixing it in the manner laid down in the last preceding Section, cause a copy thereof to be sent to each of the other Marriage Registrars in the same District, who shall likewise affix the same in their own Offices or Churches, as aforesaid.

Issue of certificate of notice given and declaration made.

XVII. Any Minister of Religion who shall consent or intend to solemnize any such marriage as aforesaid, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making such declaration as is hereinafter required, shall issue under his hand a certificate of such notice having been given and of such declaration having been made:

Proviso.

Provided that no lawful impediment according to the law of England be shewn to the satisfaction of such Minister why such certificate should not issue, and the issue of such certificate shall not have been sooner forbidden in the manner hereinafter mentioned, by any person authorized in that behalf.

In case of minority, certificate not to issue until fourteen days after receipt of notice.

XVIII. When by such declaration it appears, or when it is otherwise known to such Minister of religion, that either of the persons intending marriage, not being a widower or widow, is a minor, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of such notice of marriage.

Declaration to be made before issue of certificate.

XIX. Before any such certificate as aforesaid shall be issued by any such Minister, one of the persons intending marriage shall appear personally before such Minister, and shall make a solemn declaration that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage, and when either or both of the parties, not being a widower or widow, is or are a minor or minors, that the consent of the person or persons whose consent to such marriage is required by law has been obtained thereto, or that there is or are no person or persons resident in India having authority to give such consent, as the case may be.

Consent of parent or guardian when necessary.

XX. The father, if living, of any minor not being a widower or widow, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, shall have authority to give consent to the minor's marriage, and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

What persons may prohibit issue of certificate by notice.

XXI. Every person whose consent to a marriage is required as aforesaid, is hereby authorized to prohibit the issue of the certificate by any Minister as aforesaid, at any time before the issue of such certificate, by notice in writing to such Minister, subscribed by the person so authorized with his name and place of abode, and his or her position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure of Minister on receipt of such notice.

XXII. If any such notice prohibiting the marriage shall be received by such Minister as aforesaid, he shall not issue his certificate and shall not solemnize the said marriage until he shall have examined into the matter of the said prohibition, and shall be satisfied that the person prohibiting the marriage is not authorized by law so to do, or until the said notice be withdrawn by the person who gave it.

Proceedings before issue of certificate in the case of Native Christians.

XXIII. When any Native Christian about to be married shall take a notice of marriage to a Minister of Religion, or shall apply for a certificate from such Minister under the seventeenth Section, such Minister shall, before issuing such certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and if not, shall translate or cause to be translated such notice or certificate to such Native Christian into his language, or into some language which he understands.

Form of certificate.

XXIV. The certificate to be issued by such Minister as aforesaid, may be in the form contained in the Schedule B to this Act annexed, or to the like effect.

After issue of certificate, marriage may be solemnized.

XXV. After the issue of the certificate by such Minister of Religion, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister shall think fit to adopt: Provided that the marriage be solemnized in the presence of at least two witnesses.

Certificate to be void if marriage be not solemnized within two months.

XXVI. Whenever a marriage is not solemnized within two months after the date of the certificate which shall have been issued by such Minister as aforesaid, such certificate and all other proceedings thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice shall have been given and a certificate thereof issued in the manner aforesaid.

Proof of marriage in accordance with the provisions of Part I of this Act.

XXVII. Provided that whenever any marriage has been solemnized by a Minister of Religion in accordance with the provisions of Part I of this Act, it shall not be necessary in support of such marriage to give any proof in respect of the dwelling of the persons married, or of the consent of any person whose consent to such marriage is required by law, or of the notice of marriage, or of the certifi-

cate or the translation thereof respectively, or in respect of the hours between which the same may have been solemnized; nor shall any evidence be given to prove the contrary in any suit touching the validity of such marriage.

PART III.

As to the Time for solemnizing Marriages.

Hours between which marriages to be solemnized.

XXVIII. Every marriage solemnized in India from and after the commencement of this Act by any person who has received episcopal ordination, or by any Clergyman of the Church of Scotland, or by any Minister licensed under this Act to solemnize marriages, shall be solemnized between the hours of six in the morning and seven in the evening: Provided that this Section shall not apply to a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, from and under the hand and seal of the Anglican Bishop of the Diocese or his Commissary; and it is hereby declared that for such special license the Registrar of the Diocese shall be entitled to charge such additional fee as such Bishop may sanction: Provided also that this Section shall not apply to a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he shall have received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall so be solemnized, or from such person as the same Bishop shall have authorized to grant such license.

Proviso.

PART IV.

As to the Registration of Marriages in India.

Marriages with certain exceptions to be registered as hereinafter prescribed.

XXIX. All marriages solemnized in India from and after the commencement of this Act between persons, both or one of whom shall profess the Christian Religion, except marriages solemnized under the said Statute 14 and

15 Vic., cap. 40, and the said Act V of 1852, shall be registered in the manner hereinafter prescribed: Provided that no omission or defect in such registration shall invalidate any marriage not otherwise invalid.

Proviso.

XXX. Every marriage solemnized by a Clergyman of the Church of England shall be registered by the Clergyman solemnizing the same in the Register of Marriages of the Station or District in which the marriage shall be solemnized, according to the form contained in the Schedule C to this Act annexed.

Registration of marriages solemnized by Clergymen of the Church of England.

XXXI. Every Clergyman of the Church of England shall send four times in every year Returns in duplicate, authenticated by the signature of such Clergyman, of the entries in the Register of Marriages solemnized at or in any Station or District at which such Clergyman shall have any spiritual charge, to the Registrar of the Archdeaconry to which he shall be subject or within the limits of which such Station or District shall be situated. Such quarterly Returns shall contain all the entries of marriages contained in the said Register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be transmitted by such Clergyman within two weeks from the expiration of each of the quarters above specified. The said Registrar upon receiving the same shall transmit one duplicate to the Secretary to the Local Government.

Quarterly Returns to Archdeaconry.

XXXII. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage shall be solemnized; and such person shall forward quarterly to the Secretary to the Local Government, Returns

Registration and Returns of marriages solemnized by Clergymen of the Church of Rome.

of the entries of all marriages registered by him during the three months next preceding.

Registration and Returns of marriages solemnized by Clergymen of the Church of Scotland.

XXXIII. Every marriage solemnized by a Clergyman of the Church of Scotland shall be registered by the Clergyman solemnizing the same in a Register of Marriages to be kept by him for the Station or District in which the marriage shall be solemnized, in the form prescribed in the thirtieth Section for marriages solemnized by Clergymen of the Church of England, and such Clergyman shall forward quarterly to the Secretary to Government, through the Senior Chaplain of the Church of Scotland in the territory subject to the Local Government, Returns similar to those prescribed in the thirty-first Section for Clergymen of the Church of England of all marriages solemnized by him.

Marriages solemnized by certain persons to be entered in a Register Book and also in a certificate.

XXXIV. After the solemnization of any marriage under this Act by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England nor of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, the person solemnizing the same shall forthwith register such marriage in duplicate—that is to say, in a Marriage Register Book to be kept by him for that purpose, according to the form contained in the Schedule D to this Act annexed, and also in a certificate attached to the Marriage Register Book as a counterfoil.

Such entries to be signed and attested.

XXXV. The entry of such marriage in both the certificate and Marriage Register Book shall be signed by the person by whom the said marriage has been solemnized and also by the persons married, and shall be attested by two credible witnesses who were present at the solemnization of the marriage, and every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the Marriage Register Book.

Such certificate to be forwarded to Marriage Registrar, copied, and transmitted to Government.

XXXVI. The person solemnizing the said marriage shall forthwith separate the certificate from the Marriage Register Book, and transmit it within one month from the time of the solemnization of such marriage to the Marriage Registrar of the District in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall cause such certificate to be copied into a book to be kept by him for that purpose, and shall transmit all the certificates which he shall have received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government, together with the certificates from his own Marriage Register Book which he shall transmit under the twelfth Section of the said Statute 14 and 15 Vic., cap. 40, but distinct therefrom.

Copies of certificates to be entered and numbered.

XXXVII. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which each certificate was received by the said Marriage Registrar.

Registrar to add number of entry of copy to the certificate, and send same to Government.

XXXVIII. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book, to the certificate, with his signature or initials, and shall at the end of every month transmit the same to the Secretary to the Local Government.

Custody and disposal of Register Book of marriages solemnized under Part V of this Act.

XXXIX. The person solemnizing any such marriage as is provided for in Part V of this Act, shall keep safely the said Register Book until the same shall be filled, or if he shall leave the District in which he solemnized the marriage before the said book is filled, shall make over the

same to the person who shall succeed to his duties in the said District, who shall keep safely the same, and shall make therein the entries by this Act required to be made in respect of any marriage solemnized by him within the said District; and the person having the control of the book at the time when it shall be filled, shall send the same to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government to be kept by him with the records of his Office.

Transmission of certificates of certain marriages to Secretary of State for India.

XL. The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and forward the same certificates signed by him to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths, and Marriages.

Correction of Errors.

XLI. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and such person shall make the like marginal entry, attested in the like manner, in the certificate thereof; and in case such certificate shall have been already transmitted to the Secretary to the Local Government, such person shall make and transmit in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches may be made and copies of certificates given.

XLII. Every person solemnizing a marriage under this Act and hereby required to register the same, and every Marriage Registrar or Secretary to a Local Government who shall have the custody for the time being of any Register of Marriages, or of any certificate or copies of certificate under this Act, shall at all reasonable times allow searches to be made of any Marriage Register Book, or of any certificate, or duplicate, or copies of certificate in his custody, and shall give a copy under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is, for every search extending over a period of not more than one year the sum of one Rupee, and four annas additional for every additional year, and the sum of one Rupee for every single certificate.

Appropriation of fees.

XLIII. All fees received under the provisions of this Act by a Marriage Registrar or Secretary shall be accounted for and paid over by him to Government, and all fees received by a person solemnizing a marriage, not being a Marriage Registrar, may be retained by such person.

Certified copy of entry in Marriage Register, &c., to be received as evidence of marriage without further proof.

XLIV. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any Marriage Register or certificate or duplicate certificate required to be kept or delivered under this Act, of any entry of a marriage in such Register, or of any such certificate or duplicate certificate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such Register or certificate, or duplicate copy, or of any entry therein respectively, or of such copy.

These provisions not to apply to Registers or certificates of certain marriages solemnized by Marriage Registrars.

XLV. Nothing contained in this Part shall apply to the Register or certificate of any marriage solemnized under the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852.

Marriage Registrars to be Christians and may be appointed *ex-officio.*

XLVI. Every Marriage Registrar hereafter appointed under the provisions of the said Act V of 1852 shall be a Christian, and may be so appointed either by name or as holding any office for the time being.

PART V.

As to the Marriage of Native Christians.

Power to license persons to grant certificates of marriage between Native Christians.

XLVII. And whereas it is expedient to make provision for the marriage of Native Christians to whom the provisions of the said Statute 14 and 15 Vic., cap. 40, and the said Act V of 1852 are found not to be suitable, it is further enacted that it shall be lawful for the Local Government or the Chief Commissioner of any Province, to issue a license to any person being a Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians. Any such license may be revoked by the Government or Chief Commissioner by whom it was granted; and every such grant or revocation shall be notified in the Official Gazette.

Certificate may be given without previous notice of marriage.

XLVIII. It shall not be a necessary preliminary to the grant of a certificate by any person licensed under the last preceding Section, that any notice of marriage should have been given by either of the parties to such marriage, or that any certificate should have been issued of any notice having been given under the provisions of the said Act V of 1852 or otherwise; and every marriage between Native Christians as aforesaid applying for a certificate under this Part of this Act, shall be certified under this Part of this Act if the following conditions be fulfilled, and not otherwise:—

Conditions.

(1) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years.

(2.) The man and the woman shall not stand to each other within the prohibited degrees of consanguinity or affinity.

(3.) Neither of the persons intending to be married shall have a wife or husband still living:

(4.) In the presence of the person so licensed and of at least two credible witnesses, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B, in the presence of Almighty God and in the name of our Lord Jesus Christ do take thee, C. D., to be my lawful wedded wife (*or husband*)," or words to the like effect:

(5.) Such declaration shall be made between the hours of six in the morning and seven in the evening

On marriage (the conditions having been fulfilled), licensed person to grant a certificate thereof

XLIX. When in respect to any marriage falling under this Part of this Act, the conditions prescribed in the last preceding Section shall have been fulfilled, it shall be the duty of the person licensed as aforesaid, in whose presence the said declaration shall have been made, to grant a certificate of such marriage on the application of either of the parties to such marriage on the payment of a fee of four annas. Such certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage, as conclusive evidence of the same marriage having been performed, and no evidence to the contrary shall be received in any such suit.

Marriages performed under the provisions of Section 48 to be valid

L. All marriages performed between Native Christians as aforesaid, in accordance with the provisions of the forty-eighth Section, shall be valid.

Register Book to be kept.

LI. A Register Book of all marriages of which certificates shall be granted under the forty-eighth Section shall be kept by the person granting such certificates in his own vernacular language. Such Register Book shall be kept according to such form as the Local Government or Chief Commis-

sioner shall from time to time prescribe, and true extracts therefrom duly authenticated shall be deposited at such places and at such times as the Local Government or Chief Commissioner shall direct.

Searches to be allowed in the Register Book.

LII. Every person licensed under this Act to grant certificates of marriage and who shall have the custody of a Marriage Register Book under the last preceding Section, shall at all reasonable times allow search to be made in such Book in his custody, and shall give a copy certified under his hand of any entry or entries in the same on the payment of the fees hereinafter mentioned: that is to say—for every search extending over a period not exceeding two years the sum of eight annas, and two annas additional for every additional year.

Part V not to apply to Roman Catholics.

LIII. This Part of this Act shall not apply to marriages between Roman Catholics. But nothing herein contained shall be construed to invalidate any marriage contracted between Roman Catholics under the provisions of Part V of the said Act No. XXV of 1864.

PART VI.

As to Penalties.

Punishment for false oath, declaration, notice or certificate, for procuring marriage.

LIV. Whoever intentionally makes any false oath or declaration, or signs any false notice or certificate required by the said Statute 14 and 15 Vic., cap. 40, or the said Act V of 1852, or by this Act, for the purpose of procuring any marriage, shall be guilty of the offence described in the hundred and ninety-third Section of the Indian Penal Code, and on conviction shall be liable to the punishment prescribed in that Section.

Punishment for forbidding the issue by a Marriage Registrar of a certificate by false representation.

LV. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself or herself to be a person whose consent to the marriage is required by law, knowing such representation to be false, shall

be guilty of the offence described in the hundred and fifth Section of the Indian Penal Code, and shall on conviction be liable to the punishment prescribed in that Section.

Punishment for a person not duly authorized solemnizing a marriage.

LVI. Whoever, not being authorized under the sixth Section to solemnize a marriage shall, from and after the commencement of this Act, in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall profess the Christian Religion, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to ten years, and shall also be liable to fine; or in lieu of a sentence of imprisonment for seven years or upwards, to transportation for a term of not less than seven years and not exceeding ten years; or if the offender be an European or American, to penal servitude according to the provisions of Act XXIV of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts.*)

Punishment for solemnizing a marriage otherwise than between six A. M. and seven P. M. or without witnesses.

LVII. Whoever shall, from and after the commencement of this Act, knowingly and wilfully solemnize a marriage between persons, one or both of whom shall be a person or persons professing the Christian Religion, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine.

Section 57 not to apply to marriages solemnized under licenses.

LVIII. The provisions of the last preceding Section shall not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the

morning by a Clergyman of the Church of Rome, when he shall have received the general or special license in that behalf mentioned in the twenty-eighth Section.

Punishment for solemnizing marriage when either party is a minor, within a certain time after notice.

LIX. Any Minister of Religion licensed to solemnize marriages under this Act, who shall, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnize a marriage when one of the parties to such marriage, not being a widower or widow, is a minor, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to three years, and shall also be liable to fine. But the provisions of this Section shall not apply to marriages solemnized between Native Christians under the provisions of Part V of this Act.

Punishment for Registrars issuing certificates, or solemnizing marriages, without publication of notice, &c.

LX. Whoever, being a Marriage Registrar appointed under the provisions of the said Act V of 1852, shall knowingly and wilfully issue any certificate for marriage, or solemnize any marriage under the same Act without publishing or affixing in some conspicuous place the notice of such marriage as directed by such Act, or after expiration of two months after a certificate in respect of a marriage shall have been issued by him, shall solemnize such marriage, or shall, without an order of a competent Court authorizing him to do so, solemnize any marriage when one of the persons intending marriage (not being a widow or widower) is a minor, before the expiration of fourteen days after the receipt of such notice as is required by the same Act, or without sending or causing to be sent by the Post or otherwise a copy of such notice of marriage to the Senior Marriage Registrar of the District, if there be more Marriage Registrars of the District than one, and if he himself be not the Senior Marriage Registrar, or shall issue any certificate, the issue of which shall have been prohibited as in this Act provided by any person authorized to prohibit the issue thereof, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for persons authorized under this Act, but not being Clergymen of the Churches of England, Scotland or Rome, solemnizing marriages without publication of notices, &c.

LXI. Whoever, being a person authorized under the provisions of this Act to solemnize a marriage, and not being a Clergyman of the Church of England solemnizing a marriage after due publication of Banns or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf, or not being a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of that Church, or not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies and customs of that Church, shall knowingly and wilfully issue any certificate for marriage under this Act, or solemnize any marriage between such persons as aforesaid, without publishing or causing to be affixed the notice of such marriage as directed in Part II of this Act, or after the expiration of two months after the certificate shall have been issued by him, or shall knowingly and wilfully issue any certificate for marriage, or solemnize a marriage between such persons, when one of the persons intending marriage, not being a widower or widow, is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending or causing to be sent by the Post or otherwise a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District; or shall knowingly and wilfully issue any certificate, the issue of which shall have been forbidden under this Act by any person authorized to forbid the issue; or shall knowingly and wilfully solemnize any marriage which shall have been forbidden by any person authorized to forbid the same, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to four years, and shall also be liable to fine.

Punishment for unlicensed person pretending to grant certificate of marriage under Part V

LXII. Whoever, not being licensed to grant a certificate of marriage under Part V of this Act, shall grant such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment of

either description, as defined in the Indian Penal Code, for a term which may extend to five years, and shall also be liable to fine.

Punishment for destroying or falsifying Register Books.

LXIII. Whoever shall wilfully destroy or injure or cause to be destroyed or injured any such Register Book, or any part thereof, or any such authenticated extract therefrom as aforesaid, or shall wilfully insert or cause to be inserted any false entry in any such Register Book or authenticated extract, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term which may extend to seven years, and shall also be liable to fine.

Jurisdiction to try persons for offences punishable under this Act.

LXIV. Persons tried for offences punishable under this Act shall be tried under the provisions of the Code of Criminal Procedure by the Court of Session as defined in the same Code: Provided that no European British subject shall be liable to be tried for any offence punishable under this Act except before a Judge of the High Court. In every case in which an European British subject shall be charged before a Justice of the Peace or Magistrate at any place beyond the local limits of the ordinary original Civil jurisdiction of the High Court with any offence under this Act, such charge shall be investigated, and the committal and trial for such offence shall be made and held, according to the rules by which the Criminal Procedure of the High Court may from time to time be regulated.

Code of Criminal Procedure applicable to investigations and committals under this Act.

LXV. Except as provided in the last preceding Section, the provisions of the Code of Criminal Procedure shall apply to the investigation and committal in all cases of charges under this Act: Provided that a summons shall ordinarily issue in the first instance, and that all offences punishable under this Act shall be bailable.

Supreme Court of Straits' Settlement to try and punish offences under this Act.

LXVI. The Supreme Court of Judicature in the Settlement of Prince of Wales' Island, Singapore and Malacca shall have power to try offences punishable under this Act and committed within the limits of such Settle-

ment. The charge for any such offence shall be investigated and the committals shall be made under the procedure by which such Court shall from time to time be regulated. The penalties (if any) imposed on persons charged as aforesaid shall correspond as nearly as may be with the penalties which might have been imposed on such persons had the Indian Penal Code been then in force in the said Settlement.

SCHEDULE A.—(*See Section* 11.)

Notice of Marriage.

To the Reverend John Brown, a Minister of the Free Church of Scotland, at Calcutta.

I hereby give you notice, that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say),

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

Witness my hand, this *sixth* day of *July, one thousand eight hundred and sixty-five.*

(*Signed*) *JAMES SMITH.*

(The *Italics* in this Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District).

SCHEDULE B.—(*See Section* 24.)

Registrar's Certificate.

I, the Reverend John Brown, Minister of the Free Church of Scotland at Calcutta in Bengal, do hereby certify, that on the *sixth* day of *July* 1865, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of *James Smith,* one of the parties (that is to say),

Names.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, or place of worship, in which the marriage is to be solemnized.	District in which the other party resides when the parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

and that the declaration required by Section nineteen of "The Indian Marriage Act, 1865" has been duly made by the said (*James Smith*).

Date of notice entered *sixth July* 1865.

Date of certificate given *twentieth July* 1865.

The issue of this Certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this *twentieth* day of *July one thousand eight hundred and sixty-five.*

(*Signed*) *JOHN BROWN,*
Minister of the Free Church of Scotland

This Certificate will be void unless the marriage is solemnized on or before the *twentieth* day of *September* 1865.

(The *Italics* in the Schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another District).

SCHEDULE C.—(*See Section* 30)
Form of Register of Marriages.

Quarterly Returns
of
MARRIAGES
for

The Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,*

I, Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* do hereby certify, that the annexed are correct copies of the original and official Quarterly Returns of Marriages within the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* as made and transmitted to me for the Quarter commencing the *first* day of *October* ending the *thirty-first* day of *December,* in the Year of Our Lord *One Thousand Eight Hundred and Sixty-five.*

[*Signature of Registrar.*]

Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay.*

MARRIAGES solemnized at { *Allahabad,* / *Barrackpore,* / *Bareilly,* / *Calcutta, &c., &c.*

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date	Where published.
1	2	3	4	5	6	7
1884	III	Municipalities.	86(*d*), 279(*1*).	Levy of a water-rate within the following Municipalities (*concld.*):—		
				Hooghly-Chinsura ...	2293, 29 8 1914	Vol. III, p. 695.
					2484, 22 9 1914	Ditto.
				Howrah	235, 24 1 1913	Not published.
				Jessore	530, 19 6 1913	Vol. III, p. 694.
				Khulna	1567, 8 7 1915	Ditto, p. 696.
				Krishnagar ...	1290, 9 3 1922	Ditto, p. 698.
				Kurseong ...	572, 21 6 1911	Ditto, p 693.
				Maniktala ...	270, 5 2 1912	Ditto, p. 694.
				Midnapore ...	2, 11 9 1922	Ditto, p. 699.
				Naihati ...	430, 25 1 1922	Ditto, p. 698.
				Narayanganj ...	2178, 28 3 1908	Ditto, p. 692.
				Nator	547, 2 3 1920	Ditto, p. 697.
				Noakhali ...	500, 13 9 1921	Ditto, p. 698.
				Rajbari ...	1992, 30 6 1923	Calcutta Gazette—1923, Pt. I, p. 928.
				Satkhira ...	601, 28 10 1920	Vol. III, p. 697.
				South Suburban ...	786, 7 9 1912	Ditto, p. 694.
				Tollygunge ...	47, 2 5 1908	Ditto, p. 693.
				Uttarpara ...	1290, 10 6 1918	Ditto, p. 696.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1884	III	Municipalities.	86(*e*)	Levy of a lighting rate within the following Municipalities :—		
				Cossipore-Chitpur ...	917, 12 8 1907	Vol. III, p. 700.
				Howrah ...	242, 21 5 1913	Not published.
				Maniktala ...	253, 4 5 1907	Vol. III, p. 699.
					641, 15 3 1910	Ditto, p. 701.
					50, 24 4 1918	Ditto, p. 702.
"	"	Ditto ...	86(*f*)	Levy of a fee for the cleansing of latrines within the following Municipalities :—		
				Arambagh (certain areas).	689, 2 2 1899	Ditto, p. 710.
					200, 8 5 1915	Ditto, p. 734.
				Azimganj ...	621, 1 2 1905	Ditto, p. 723.
				Bally (certain areas) ...	693, 1 4 1911	Ditto, p. 731.
					409, 31 5 1912	Ditto, p. 732.
				Bansberia (certain areas).	760, 16 3 1918	Ditto, p. 737.
				Barasat (certain areas)	2443, 23 9 1916	Ditto, p. 734.
				Barisal (certain areas)	1572, 13 7 1905	Ditto, p. 725.
					2437, 7 5 1921	Ditto, p. 738.

ARMS ACT CONTINUANCE ACT.

ACT No. VI. OF 1865.

[*Received the assent of the G. G. on the 22nd February* 1865.]

Continues Act XXXI, 1860, till 1st October 1866.

Preamble.

WHEREAS Act No. XXXI of 1860 is limited to expire on the first day of October 1865; and whereas it is expedient to continue such Act for a limited period; It is enacted as follows:—

Act XXXI of 1860 continued.

I. Act No. XXXI of 1860 shall continue in force until the first day of October 1866.

Short Title.

II. This Act may be cited as "The Arms' Act Continuance Act, 1865."

GOVERNMENT FORESTS ACT.

ACT No. VII. OF 1865.

[*Received the assent of the G. G. on the 24th February* 1865.]

1. Interprets the words Government Forests, Magistrate, Local Government.

2—5. Authorizes the Government to put jungle lands, &c., under provisions of this Act; and (3) to make Rules for management, &c., of Forests, &c.; which Rules (4) may provide for specified matters, that is, the preservation of Forests, &c., the regulation of the use of streams, &c.; the safe custody and felling, &c., of timber; and the regulation of the duties of Forest Officials, &c.; (5) for the infringement of which rules, if not provided for by Act, Government may prescribe fine, &c.

6—7. Rules to have force of Law when confirmed by Governor-General in Council; and (7) all implements used in infringement thereof and produce of, to be confiscated.

8—9. Empowers Police to arrest person and seize implements used in infringement; such person (9) to be taken before Magistrate, &c.

10. Procuring act to be an offence like doing the act.

11—12. Empowers Magistrate to proceed to carry out confiscation; and (12) makes vexatious proceedings for confiscation punishable.

13. Procedure in cases under this Act to be according to Code of Criminal Procedure.

14—15. Vests the right by confiscation in Her Majesty; but (15) Government may call for proceedings and order restitution of property, or remission of the penalty, &c.

16—17. Limits actions for acts done under this Act to three months, and requires one month's previous notice of action; and (17) limits the right to proceed for offences under this Act to six months.

18. Act extends to Bengal, North-Western Provinces, and Punjab, and may be extended by Madras and Bombay Governments to their Territories.

19. Act to be called the "GOVERNMENT FORESTS ACT OF 1865."

Preamble.

WHEREAS it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows:—

Interpretation Clause.

I. In this Act, unless there be something repugnant in the subject or context—

"Government Forest."

"Government Forests" shall mean such land covered with trees, brushwood or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions.

"Magistrate."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such Officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure, with a view to the exercise by him of such powers under this Act.

"Local Government."

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1884	III	Municipalities.	86(*f*)	Levy of a fee for the cleansing of latrines within the following Municipalities (*contd.*) :—		
				Howrah ...	1130, 12 4 1919	Vol. III, p. 737
				Jamalpore ...	1510, 24 3 1922	Ditto, p. 738
				Jaynagar ...	4701, 16 9 1899	Ditto, p. 711.
				Kanchrapara (certain areas).	2751, 2 11 1904	Ditto, p. 722.
				Katwa	7 4 1890	Ditto, p. 770.
				Khardah (certain areas)	1510½, 2 7 1892	Ditto, p. 708.
					345, 20 1 1902	Ditto, p. 715.
				Khulna (certain areas)	170, 10 5 1913	Ditto, p. 733
				Kishoreganj ...	5 9 1890	Ditto, p. 705.
				Kotrung (certain areas)	502, 9 3 1908	Ditto, p. 729.
				Krishnagar (Wards Nos. III to V).	333, 11 6 1892	Ditto, p 707.
				Kumarkhali ...	12 5 1891	Ditto, p. 706.
					2775, 28 10 1892	Ditto, p. 708.
					488, 2 2 1894	Ditto, p. 709.
					5140, 24 10 1894	Ditto, p. 781.
				Kurseong ...	31 8 1889	Ditto, p. 704
				Kushtia (Wards Nos. V and VI).	2911, 20 7 1894	Ditto, p. 709.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohibiting the converting or cutting into pieces, or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner, so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial

limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling, or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues.

Power to Local Government to prescribe punishments for infringement of Rules.

V. In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

Rules when confirmed and published to have the force of law.

VI. Such Rules when confirmed by the Governor-General in Council and published in the Official Gazette shall have the force of law.

Confiscation in case of infringement of Rules.

VII. All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attempted to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

VIII. Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

Arrest and seizure in case of infringement of Rules.

IX. Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

Procedure in case of arrest.

X. Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

XI. When any timber or other property shall be seized as liable to confiscation under this Act, any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Procedure in respect of property seized as liable to confiscation.

XII. Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or

Penalty for vexatious seizures and arrests.

commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

XIII. All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

XIV. When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Remission of penalties.

XV. When any confiscation or penalty shall be adjudged under this Act, the Local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

Limitation of suits under this Act.

XVI. No suit or other proceedings shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the case thereof; nor after the expiration of three months from the accrual of the cause of of suit or other proceeding.

Period within which charges to be brought.

XVII. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Extent of Act.

XVIII. This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces, and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

Commencement of Act. Short Title.

XIX. This Act shall come into operation on the first day of May 1865, and may be cited as "The Government Forests' Act, 1865."

BENGAL—SHERIFF'S INDEMNITY ACT.

ACT No. VIII OF 1865.

[*Received the assent of the G. G. on the 24th March* 1865.]

Recites expediency of making valid certain arrests and indemnifying the Sheriff.

1—2. Makes valid all arrests in execution in the High Court, as if in accordance with Code of Civil Procedure; and (2) gives immunity from all actions on ground thereof.

3. Authorizes Governments of Madras and Bombay to extend the Act to arrests, &c., in their High Courts.

Preamble.

WHEREAS it is expedient to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original Civil Jurisdiction, and to indemnify the Sheriff of the said High Court and others in respect of such imprisonment; It is enacted as follows:—

Arrests, &c., heretofore made to be deemed good, though not in accordance with the Civil Procedure Code.

I. All arrests made subsequently to the establishment of the High Court of Judicature at Fort William in Bengal and before the passing of this Act, in execution of any process issued by the said Court in the exercise

of its ordinary original Civil Jurisdiction, and the detention and imprisonment of all persons so arrested, shall for all purposes be deemed to be and always to have been as valid and effectual as if such arrests, detentions, and imprisonments had been in accordance with the provisions of the Code of Civil Procedure.

No suit to lie for any such illegal arrest, &c.

II. No suit or proceeding shall be maintained in any Court on the ground that any such arrest, detention, or imprisonment as referred to in the preceding Section and thereby made valid and effectual, was illegal or invalid by reason of its not having been in accordance with the said Code of Civil Procedure, or of the omission of the Sheriff or Deputy Sheriff of the said High Court to conform to any of the provisions of the said Code.

Extension of the Act to the High Courts of Madras and Bombay.

III. The Governor in Council of Fort Saint George, and the Governor in Council of Bombay, may, by an order to be published in the Official Gazettes of Madras and Bombay respectively, extend this Act so as to apply to arrests, imprisonments, and detentions under process issued by the High Court of Judicature at Madras, and the High Court of Judicature at Bombay respectively, on or before the first day of March 1865. When so extended this Act shall in all respects apply to each of the said High Courts in the same manner as if the names of such Courts had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

REGISTRATION OF ASSURANCES.

ACT No. IX. OF 1865.

[*Received the assent of the G. G. on the 7th March* 1865.]

Recites expediency of amending Act XVI, 1864.

1, 2, 3, 6. Amends Act XVI. Section 10, by addition of words; and (2) Section 13 by addition of a Proviso, saving from operation of Act shares

of Joint Stock Companies having immoveable property; and (3) repeals Act XVI, Section 25; and (6) Section 40.

4. Provides for registration of instruments affecting immoveable property situate in more Districts than one.

5. Makes valid Powers of Attorney not executed according to Act XVI, Section 28, on certain conditions.

6. *Supra.*

7. Directs that Abstracts of instruments affecting immoveable property registered with Deputy Registrars shall be forwarded to District Registrars.

8. Empowers Registrar General to appoint the District Registrar to act for him during his absence.

9. Makes this Act part of Act XVI, 1864.

Preamble.

WHEREAS it is expedient to amend Act No. XVI of 1864 (*to provide for the Registration of Assurances*); it is enacted as follows:—

Addition to tenth Section of Act XVI of 1864.

I. The second sentence of the tenth Section of Act No. XVI of 1864 shall be read as if the words "or any other person whom the Registrar General may think proper to appoint" were inserted after the words "Civil jurisdiction of the District."

Addition to thirteenth Section of said Act.

II. The thirteenth Section of the said Act shall be read as if the following proviso formed part thereof: Provided also that the provisions of this Section shall not apply to any instrument relating to shares in a Joint Stock Company notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property.

Act XVI of 1864, Section 25, repealed.

III. The twenty-fifth Section of Act No. XVI of 1864 is hereby repealed.

Registration of instruments affecting immoveable property situate in more than one District.

IV. Every instrument affecting immoveable property situate in more Districts than one may be presented for registration to the District Registrar of any District in which any part of the property is situate, and it shall be the duty of such Registrar to register the instrument and to forward a copy thereof endorsed with an attestation

stating the date on which it was registered and its number in his Register Book to the District Registrar of every District in which any other part of such property is situate, as well as to the Deputy Registrars subordinate to himself within the limits of whose jurisdiction any part of the property is situate. The District Registrar on receiving the copy shall forward a copy of the same and of the endorsement on the instrument to the Deputy Registrars subordinate to him within the limits of whose jurisdiction any part of the property is situate. Every District Registrar and Deputy Registrar receiving such copy as above shall register the same in the same manner as if the instrument had been presented to him in the first instance for registration.

Recognition of powers of attorney executed by persons absent from India without exact observance of provisions of Section 28 of Act XVI of 1864.

V. Every power of attorney not duly executed or attested in compliance with the terms of the twenty-eighth Section of Act XVI of 1864 shall, at any time within three months after the passing of this Act (but not afterwards), be deemed to be a power duly executed and attested within the meaning of the same Section, if the Registrar General, or in his absence the Deputy Registrar General, after making such enquiry as he shall think fit, shall have certified upon such power of attorney that he is satisfied with the execution thereof, and that, in his opinion, it should be taken as a power duly executed and attested as aforesaid: Provided that this Section shall not apply to any case in which the person who executed the power of attorney shall be still in India.

Act XVI of 1864, Section 40, repealed.

VI. The fortieth Section of Act No. XVI of 1864 is hereby repealed.

Abstracts of instruments affecting immoveable property registered by Deputy Registrars to be forwarded through District Registrars to General Register Office.

VII. An abstract of every original instrument affecting immoveable property registered in the office of any Deputy Registrar shall, with an endorsement showing the date on which it was registered and its number in the Register Book of such Deputy Registrar,

be forwarded in duplicate within seven days from such date, to the District Registrar, who shall forthwith forward one of such duplicates to the General Register Office, and shall retain the other in his own office, and enter it in a Book corresponding with the Book No. 1, 2, 3, or 4 as described in the fifty-sixth Section of the said Act No. XVI of 1864.

Appointment of Deputy Registrar General to perform duties of Registrar General under Sections 26 and 27 of Act XVI of 1864 during his absence on duty.

VIII. During the absence on duty of the Registrar General from the place where the General Register Office is established, it shall be lawful for for him to appoint the District Registrar of such place, or, with the sanction of the Local Government, such other person as he shall think fit, to perform the duties of the Registrar General under the twenty-sixth and twenty-seventh Sections of the said Act. A District Registrar so appointed as aforesaid shall perform such duties in addition to his own duties as District Registrar. During such absence as aforesaid, such District Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General, and may, in registering any instrument under the said twenty-sixth Section, use the Seal of the Registrar General.

This Act to be construed with Act XVI of 1864.

IX. This Act shall be read and taken as part of the said Act No. XVI of 1864.

THE INDIAN SUCCESSION ACT, 1865.

ACT No. X OF 1865.

[*Received the assent of the G. G. on the* 16*th March* 1865.]

Recites expediency of amending and defining the Law of Intestate and Testamentary Succession.

PART I.—*Preliminary.* 1—4.

1—3. Names the Act. (2) Declares it to be the law for British India in cases of Intestate or Testamentary Succession; and (3) interprets words of Number and Gender, and the words, Person, Year and Month, Immoveable Property, Moveable Property, Province, British India, District Judge, Minor and Minority, Will, Codicil, Probate, Executor, Administrator, Local Government, High Court.

4. Deprives marriage in itself of all effect in vesting or creating any incapacity in respect of the right of property.

PART II.—*Of Domicile.* 5—19.

5. Succession to immoveable property is regulated by the Law of the place where the property is situated, to moveable by the Law of place of domicile, &c. Illustrations.

6. A person can have only one domicile, &c.

7—10. Defines domicile of origin of legitimate child, and posthumous child, and (8) illegitimate child; and (9 and 13) its duration; and (10) the mode of acquiring a new domicile. Explanation.

11. Establishes special mode of acquiring a domicile in India.

12. Representatives of Foreign Government do not acquire a domicile by residence, nor their families or servants.

13. Supra.

14—17. The domicile of minor follows that of parent, and (15 and 16) of woman by marriage that of husband, unless judicially separated.

18. Insane person can acquire a new domicile only by following that of another person.

19. In the absence of proof of other domicile succession to moveable property is regulated by Law of British India.

PART III.—*Of Consanguinity.* 20—24.

20—23 Consanguinity is the relationship of persons from the same stock; it is (21) lineal when it comes in a direct line as from father and grand-

father ; collateral (22) when it comes remotely from the same stock, as from the same great grandfather, but immediately from different stocks ; and (23) for the purpose of succession relationship is the same, whether through the mother or father, or be of the full or half blood, and children born after father's death have the same relationship.

24. Explains the Table of Consanguinity.

PART IV.—*Of Intestacy.* 25—28.

25—28. A man is intestate as to all property on which his Will does not operate ; and (26) such property devolves according to the following rules, (27) in case of leaving a widow, &c., and (28) of leaving no widow, &c.

PART V.—*Of the Distribution of an Intestate's Property.* 29—42.

(*a*) *Where he has left or* (*b*) *not left lineal descendants.*

29. Establishes rules of distribution after deducting widow's share among lineal descendants ; if (30) lineals be a child or children ; if (31) a grandchild or grand-children ; or (32) great grand-children or more remote ; or (33) lineals of more remote degree, &c. ; or (34) if no lineal descendants, but (35) a father ; or (36) a mother and brothers, &c. ; or (37) a mother and brothers, &c., and children of deceased brother ; or (38) a mother and no brothers, &c., but brother's children ; or (39) mother alone surviving ; and (40) if neither lineal descendants nor father or mother, nor (41) also brother or sister ; and (42) abolishes the practice of hotchpot.

PART VI.—*Of the effect of Marriage and Marriage Settlements on Property.* 43—45.

43—44. Husband and wife respectively to have the same rights in regard to the property of the other dying intestate : and (44) same rule applies if person not domiciled in India marries in India a person domiciled there.

45. Minor's property may be settled on marriage, with approbation of father, &c.

PART VII.—*Of Wills and Codicils.* 46—49.

46. Every person of sound mind and not a minor may make a Will. Explanations, 1 as to married women ; 2 as to deaf and dumb ; 3 insane persons ; 4 as to incapacity from illness, &c.

47. For appointment of Testamentary Guardian.

48. As to Wills caused by fraud, &c.

49. A person competent to make is competent to revoke or alter a Will.

PART VIII.—*Of the Execution of Wills.* 50—51.

50—51. Must be by signature or mark by testator or by his direction in his presence, so placed as to show intention, &c.: and must be attested by two witnesses, &c.; and (51) writings referred to in Will may be read as part of the Will.

PART IX.—*Of Privileged Wills.* 52—53.

52—53. Defines Privileged Wills, *i. e.* Wills of soldiers employed in an expedition, &c., and (53) directs what making will constitute such a Will.

PART X.—*Of the Attestation, Revocation, Alteration and Revival of Wills.* 54—60.

54—55. Bequest to attesting witness or his wife or husband void; but attestation to stand good. Explanation; (55) and interested witness of a Will not disqualified to prove it.

56—58. Marriage is revocation of Will when, except Will under a Power; and (57) unprivileged Will revoked only by marriage, or new Will, or tearing it up, &c.; and (58) obliteration, interlineation in Will after execution to have what effect.

59—60. Privileged Will may be revoked in same manner as unprivileged Will, and (60) shall only be revived by re-execution, or Codicil, &c.

PART XI.—*Of the Construction of Wills.* 61—98.

61. All that is required in the wording of a Will is that it makes known the intention of the Testator; and (62) the Court may make enquiry into facts, to any extent necessary to apply the intention; and (63) mistakes in names, &c., not to defeat intention; and (64) context may supply defects of expression; and (65) if thing can be identified, partially inapplicable description may be rejected; and (66) limits the application of this rule, and words liable to rejection may be considered as struck out of Will; and (67) evidence may be taken to apply unambiguous words admitting of several applications; but (68) not to apply patent ambiguity: and (69) the meaning of any Clause is to be collected from the entire Will, &c.; *e. g.* (70) general words may be construed in a more restrictive and restricted words in a more general sense; and (71) of two meanings that is to be preferred which has some effect; and (72) no part is to be rejected; and (73) the same words every where to be interpreted in same sense; and (74) intention to prevail partially rather than not at all; and (75) of parts irrecon-

cilable the last is to prevail; and (76) what is void for uncertainty; and (77) description of subject of gift to apply to property at time of death; and (78) general words of description to include all property coming within the description, &c.; and (79) if power of appointment is not exercised, property to go in equal shares to all within the power; and (80) as to bequests to "heirs," "right heirs," "relations," "nearest relations," "family," "kindred," "nearest of kin," "next of kin"; and (81) "representatives," "legal representatives," "personal representatives," "executors or administrators," &c.; and (82) the whole interest to pass if not restricted; and (83) as to alternative bequests; and (84) as to bequests such as to "A and his children," "A and his brother," &c.; and (85) to persons under a general description; and (86) on the construction of the terms "children," "grand-children," &c., and such words include a child in the womb, if afterwards born; and (87) words of relationship apply only to legitimate relations; and (88) as to the operation of two bequests to same person; and (89) as to residuary legacies; and (90) the property within them; and (91) as to the time of legacies vesting; and (92—98) the lapse of legacies and the disposal of lapsed.

PART XII.—*Of Void Bequests.* 99—105.

99. When void for misdescription of legatee; and (100) when for non-existence of legatee, &c., &c.; and (101 and 102) when the limitations extend to beyond a life, and the minority of next taker; and (103) void if contingent on void bequests taking effect; and (104) bequests for accumulation of interests not to take effect; and (105) restricts bequests to charitable uses, if testator has near relations specified.

PART XIII.—*Of the Vesting of Legacies.* 106—108.

106. When to vest, if payment, &c., is postponed; (107) if payment, &c., is contingent; (108) if to a class, on members attaining specified age.

PART XIV.—*Of Onerous Bequests.* 109—110.

109. If legacy is accepted burden is accepted; but (110) of separate and independent legacies, an onerous one may be refused and the other accepted.

PART XV.—*Of Contingent Bequests.* 111—112.

111. Limits the time within which contingency must happen for contingent legacy to take effect; and (112) qualifies the contingency when it relates to persons surviving.

PART XVI.—*Of Conditional Bequests.* 113—124.

113—114. Bequest void, if condition be impossible; or (114) contrary to law, &c.

115—116. Substantial performance of condition precedent sufficient; and (116) if bequest contingent on failure of prior condition, failure in manner contemplated not necessary, unless (117) by Will, manner of failure be essential.

118—119. Makes bequests over subject to rules in Sections 107 to 114 and 116, 117; and (119) in bequests over on condition, the condition must be strictly fulfilled.

120. Invalidity of ulterior bequest does not affect the original bequest.

121. Bequest may be made to become void on condition subsequent; provided (122) the condition be a legal one; and (123) legatee not to have benefit of legacy over on condition, if he himself makes the condition impossible, &c.; and (124) conditions to happen in specified time, must happen within the time.

PART XVII.—*Of Bequests with directions as to application or enjoyment.* 125—127.

125—127. In absolute bequests, directions as to application or enjoyment, or (126) mode of benefit to legatee are void; but (127) if bequests be for several distinct purposes, as to some of which it cannot take effect, the bequest so far fails.

PART XVIII.—*Of Bequests to an Executor.* 128.

128. Legatee named as an Executor shall not take the legacy, unless he proves the Will or act.

PART XIX.—*Of Specific Legacies.* 129—136.

129—133. Defines what is a Specific Legacy and what not; and (130—133) illustrate the definition.

134. Specific legacy to be retained in specific form, and (136) not to abate with general legacies in case of deficiency of assets, &c.

135. Property not specifically bequeathed to be sold and proceeds invested, &c.

PART XX.—*Of Demonstrative Legacies.* 137—138.

137. Defines what is a Demonstrative Legacy; and (138) provides for payment, if to come out of fund specifically bequeathed.

PART XXI.—*Of Ademption of Legacies.* 139—153.

139. Explains Ademption; (140) does not take effect on demonstrative legacies; but (141—153) does take effect when, in cases explained of specific legacies, &c. See Section 166.

PART XXII.—*Of the Payment of Liabilities in respect of the subject of a Bequest.* 154—157.

154. Legatee takes specific legacy subject to burden upon it, when; but (155) testator's title to thing specifically bequeathed to be completed at expense of estate; and (156) as to charge of rent, and (157) of call on share or stock.

PART XXIII.—*Of Bequests of Things described in General Terms.* 158.

158. Thing to be purchased for Legatee by Executor.

PART XXIV.—*Of Bequests of the Interest or Produce of a Fund.* 159.

159. Bequest of the interest, &c., of a Fund, will pass the Fund, when.

PART XXV.—*Of Bequests of Annuities.* 160—163.

160—163. Annuity created by Will, is for life, unless limited; and (161) if to be provided for out of property, Legatee may have either the property or annuity; and (162) annuity to abate, when; but (163) annuity to be satisfied before residuary.

PART XXVI.—*Of Legacies to Creditors and Portioners.* 164—166.

164—166. Legacy to a Creditor not to be adeemed in satisfaction of debt, except when; and (165) legacy to child to be in addition to portion, except when; and (166) bequest not to be adeemed by subsequent settlement.

PART XXVII.—*Of Election.* 167—177.

167—169. Under what circumstances election must be made; and (168) lays down rule; and (169) explains extent of rule.

170—172. A bequest for a man's benefit operates as a bequest to himself; but (171) election need not be made, if no direct benefit be

taken; and (172) person taking in one character a benefit may elect in another character to take in opposition to the Will.

173—176. As to what constitutes an election, and as to constructive election.

177. A person under disability not put to elect till disability ceases.

PART XXVIII.—*Of Gifts in contemplation of Death.* 178.

178. May be made of moveable property, and defines such gifts, which are resumable, or fail, when.

PART XXIX.—*Of Grant of Probate and Letters of Administration.* 179—207.

179. Executor or Administrator is legal representative, and all the deceased's property vests in him.

180—188. Probate may be issued on copy of Will if originally proved in foreign jurisdiction, but (181) can be granted only to Executor; whose appointment (182) may be express or by necessary implication; and (183) cannot be granted to a Minor; but (184) may be granted to several; and (185) may be granted of Codicil afterwards, when, &c., and (186) if Probate be to several, the representative survives; and (187) without Probate or Letters of Administration no right under Will can be established; and (188) Probate establishes the right of the Executor from the death of Testator.

189—192. Letters of Administration not to be granted to Minor, &c.; and (190) no right to property of Intestate can be established without Letters, &c.; and (191) Letters granted take effect retrospectively from death, &c.; except (192) as to intermediate acts to disadvantage of estate.

193—195. As to grant of Letters of Administration if Executor has not renounced; and (194) as to how Executor may renounce; and (195) if he renounces or does not accept, &c., Letters of Administration may be issued.

196—199. If no Executor be appointed by Will, Probate may be granted to residuary Legatee, &c., and (197) if he has a beneficial interest his representative may succeed him; and (198) as to how in case there be neither Executor nor residuary Legatee, &c., but (199) Letters not to be granted to Legatee except residuary, till after citation of next of kin.

200—207. Grant of Letters of Administration in case of intestacy may be as follows; (201) *viz.* to widow, unless disqualified, &c.; either (202) with or without other person who would be entitled if there were no widow; and (203) if no widow, to person or persons entitled by rules for distribution; and (204) persons standing in equal degree are equally entitled to administration; and (205) husband has same right of administration in

regard to wife's estate as wife has to husband's; and (206) may be granted to creditor when; and (207) these rules to be followed, though person interested be domiciled where the Law of Succession differs.

PART XXX.—*Of Limited Grants.* 208—234.

208—234. Of copy, in case of loss of original Will; and (209) in case of no copy existing; or (210) of Will being withheld adversely; or (211) of Will simply not forthcoming; and (212) to the Attorney of absent Executor; and (213) same as to Letters of Administration; if (214) no person present is equally entitled; and (215) grant may be to guardian of Minor; until (216) Minor be 18; and (217) may be to Committee of Lunatic Executor, &c.; and (218) Letters of Administration, &c., may be granted for special purpose; as pending suit touching the validity of Will; and (219—220) for purpose limited by Executor; or (221) as to property limited; or (222) limited to a suit; and (223) fresh may be granted after twelve months' absence of original grantee; and (224) whenever necessary for preservation of property; and (225) may for reasons be granted to other than the person ordinarily entitled; and (226 and 227) may be granted with an exception whenever the nature of the case requires; and (228) when made with exception, Probate or Administration of the rest may be granted to person ordinarily entitled; and (229) on death of Executor a new representative must be appointed; and (230 and 231) same rules as to estates not fully administered: and (232) errors, &c., in names, &c., in grants, &c., may be corrected; and (233) grant for Codicil subsequently discovered may be added; and (234) for just cause grant, &c., may be revoked.

PART IXXX.—*Of the Practice in granting and revoking Probates and Letters of Administration.* 235—264.

235—243. Gives District Judge full jurisdiction for granting, &c., Probates, &c., (236) as in Civil Suits; and (237) to order production of testamentary papers, &c.; and (238) procedure to be, as nearly as can be, according to Act VIII, &c.; and (239) before Probate, &c., may interpose for protection of property; and (240) Probate, &c., may be granted in the district in which deceased resided or left property; and (241) gives Judge a discretion as to granting or refusing; and (242) Probate, &c., shall give a conclusive title as against all debtors, &c., to the estate; and (243) shall be granted if applied for as prescribed by this Code.

244, 245—248. Application for Probate shall be by Petition, with the Will annexed, &c.; and (245) a translation of it, verified, (see also 248) if not in the English language.

246—249. Application for Letters of Administration to be by Petition, stating what facts, and (247) verified, how; and (249) false verification to be punished under Indian Penal Code.

250. Empowers District Judge with reference to Petitions, to require further evidence on, and issue Citations, &c.

251—253. Authorizes Caveats against grant, in (252) what form; and (253) after Caveat no proceeding to be taken without notice to Caveator.

254—255. In what form grant of Probate shall be, and (255) in what form Letters of Administration.

256—257. Administration Bond with sureties to be entered into; which (257) may be assigned.

258. Neither Probate to be granted till seven, nor Letters of Administration till fourteen, clear days after death.

259. Wills to be filed, &c.

260. Grantee of Probate or Letters alone to represent the deceased.

261. In case of litigation respecting grant proceedings to be in form of a regular suit.

262. Revocation of Probate or Letters not to affect validity of payments made under such Probate, &c.

263—264. Gives an appeal to High Court against all acts of District Judge, &c.; and (264) gives High Court concurrent Powers with District Judge.

PART XXXII.—*Of Executors of their own wrong.* 265—266.

265—266. Defines who is; and (266) makes him accountable to rightful executor, &c.

PART XXXIII.—*Of the powers of an Executor or Administrator.* 267—275.

267—272. Defines power of Executor, &c., to sue for causes of action which survive; and (268) rights and liabilities of, as to demands; and states exception; and (269) his power as to property of deceased; and (270) makes all purchases of property of deceased by himself voidable, &c.; and (271) declares the powers of executors to be several; and (272) to survive.

273—275. Administrator of effects unadministered; and (274) administration during minority; and (275) married woman as Executor or Administrator, have all the powers of ordinary Administrator or Executor.

PART XXXIV.—*Of the Duties of an Executor or Administrator.* 276—291.

276—290. Defines the duties of an Executor as to funeral; and Administrator (277) as to filing Inventory and Account, (278) as to realiza-

tion of property and debts; as to (279) order of payment of charges, &c.; (280) and expenses of Probate, &c.; (281) and of servants' wages; and (282) of creditors; and how (283) when not domiciled in India; and (284) when last mentioned creditor has received part payment out of real estate; and (285) debts of every kind to be paid before legacy; and (286) legacy need not be paid without indemnity against contingent liabilities if there are any; and (287) legacies to abate equally, if estate insufficient to pay all in full; but (288) specific legacy not to abate, except when; and (289) demonstrative legacy to have preference; but (290) an abatement shall be made as between specific legacies.

291. As to what shall be treated as general legacies for purpose of abatement.

PART XXXV.—*Of the Executor's Assent to a Legacy.* 292—297.

292—296. Executor's assent necessary to complete title to legacy; and (293) his assent will devest his interest as executor, except when, and how assent may be, and (294) may be conditional; and (295) his assent necessary to a legacy to himself, &c.; and (296) after assent legacy takes effect from death of testator.

297. Executor not bound to pay, &c., legacy till a year after death.

PART XXXVI.—*Of the Payment and Apportionment of Annuities.* 298—300.

298—300. Annuity commences from death of Testator, if no other time fixed; and (299) due at end of first quarter, if quarterly; and (300) if time fixed for first payment, subsequent ones follow on the anniversary.

PART XXXVII.—*Of the Investment of Funds to provide for Legacies.* 301—308.

301—304. For payment of life annuity sum must be invested, and how; and (302) for specific legacy, how; and (303) Government annuity shall be purchased, when; and (304) when secured in the hands of residuary legatee.

305—307. If residue is given for life, uninvested part must be invested; and (306) in such securities as Will specifies; (307) at times, in discretion of executor, &c.; and (308) as to what is to be done, if legatee be a minor.

PART XXXVIII.—*Of the Produce and Interest of Legacies.* 309—315.

309—315. Legatee of specific legacy entitled to produce from testator's death; and (310) residuary legatee same as to residuary fund; if (311) no

time fixed, interest runs from end of one year after death; or (312) from time fixed; at rate (313) of 4 per cent.; and (314) interest on arrears does not run within first year; and (315) interest runs from death, if direction given to invest in annuity.

PART XXXIX.—*Of the Refunding of Legacies.* 316—326.

316—318. Refund may be required when, if legacy paid under orders of Court; but (317) not if paid voluntarily; and (318) when legatee must resort to the distributaries of the estate instead of the executor.

319—320. Executor may require refund of legacy for payment of debt of which he had no previous notice; and (320) executor giving same notices as in administration suit, is equally protected by them as in suit.

321—325. As to right of unpaid against paid legatee, if (322) assets were originally sufficient; and (325) if assets were not originally sufficient; and (324) rule as to extent of refund; and (325) no interest payable on refund.

326. After payment of debts and legacies residue to be paid to residuary legatee.

PART XL.—*Of the Liability of Executor or Administrator for Devastation.* 327—328.

327. Executor, &c., liable for misapplication of estate; and (328) for loss occasioned by neglecting to get in estate.

PART XLI.—*Miscellaneous.* 329—332.

329. Enacts Schedule of Stamp Duties.

330. Saves rights of Administrator General.

331. Saves the Hindu and Mahometan Laws of Succession; and excepts Wills made before 1st January 1866, and saves from Section 4 marriages before same date.

334. Gives the Governor-General in Council power to exempt any race, &c., from operation of the Act.

SCHEDULE.

Preamble.

WHEREAS it is expedient to amend and define the rules of law applicable to Intestate and Testamentary Succession in British India; It is enacted as follows:—

PART I.

Preliminary.

Short Title.

I. This Act may be cited as "The Indian Succession Act, 1865."

This Act to constitute the law of British India in cases of Intestate or Testamentary Succession.

II. Except as provided by this Act or by any other law for the time being in force, the rules herein contained shall constitute the law of British India applicable to all cases of Intestate or Testamentary Succession.

Interpretation Clause.

III. In this Act, unless there be something repugnant in the subject or context—

"Number."

"Gender."

Words importing the singular number include the plural: words importing the plural number include the singular; and words importing the male sex include females.

"Person."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Year."
"Month."

"Year" and "Month" respectively mean a year and month reckoned according to the British Calendar.

"Immoveable property."

"Immoveable property" includes land, incorporeal tenements and things attached to the earth, or permanently fastened to anything which is attached to the earth.

"Moveable property."

"Moveable property" means property of every description except immoveable property.

"Province."

"Province" includes any division of British India having a Court of the last resort.

"British India."

"British India" means the Territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., Cap. 106 (*An Act for the better Government of India*) other

than the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"District Judge."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"Minor."
"Minority."

"Minor" means any person who shall not have completed the age of eighteen years, and "minority means the status of such person."

"Will."

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death.

"Codicil."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the Will.

"Probate."

"Probate" means the copy of a Will certified under the seal of a Court of competent jurisdiction, with a grant of administration to the estate of the testator.

"Executor."

"Executor" means a person to whom the execution of the last Will of a deceased person is, by the testator's appointment, confided.

"Administrator."

"Administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor.

"Local Government."
"High Court."

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part; and "High Court" shall mean the highest Civil Court of Appeal therein.

Interests and powers not acquired nor lost by marriage.

IV. No person shall, by marrage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done if unmarried.

PART II.

Of Domicile.

Law regulating succession to a deceased person's immoveable and moveable property, respectively.

V. Succession to the immoveable property in British India of a person deceased is regulated by the law of British India, wherever he may have had his domicile at the time of his death. Succession to the moveable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

Illustrations.

(*a*) A, having his domicile in British India, dies in France, leaving moveable property in France, moveable property in England, and property, both moveable and immoveable, in British India. The succession to the whole is regulated by the law of British India.

(*b*) A, an Englishman, having his domicile in France, dies in British India, and leaves property, both moveable and immoveable, in British India. The succession to the moveable property is regulated by the rules which govern, in France, the succession to the moveable property of an Englishman dying domiciled in France, and the succession to the immoveable property is regulated by the law of British India.

One domicile only affects succession to moveables.

VI. A person can only have one domicile for the purpose of succession to his moveable property.

Domicile of origin of person of legitimate birth.

VII. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domicile: or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Illustration.

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

Domicile of origin of illegitimate child.

VIII. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Continuance of domicile of origin.

IX. The domicile of origin prevails until a new domicile has been acquired.

Acquisition of new domicile.

X. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.—A man is not to be considered as having taken up his fixed habitation in British India merely by reason of his residing there in Her Majesty's Civil or Military Service, or in the exercise of any profession or calling.

Illustrations.

(*a*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a Barrister or a Merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*b*) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*c*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the British Indian Government for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(*d*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*e*) A, having gone to reside in British India under the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*f*) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*g*) A, having come to Calcutta under the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring domicile in British India.

XI. Any person may acquire a domicile in British India by making and depositing in some Office in British India (to be fixed by the Local Government), a declaration in writing under his hand of his desire to acquire such domicile, provided that he shall have been resident in British India for one year immediately preceding the time of his making such declaration.

Domicile not acquired by residence in a country merely as the representative of a foreign Government, or by residence with him as part of his family or as a servant.

XII. A person who is appointed by the Government of one country to be its ambassador, consul, or other representative in another country, does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment; nor does any other person acquire such domicile by reason only of residing with him as part of his family or as a servant.

Continuance of new domicile.

XIII. A new domicile continues until the former domicile has been resumed, or another has been acquired.

Minor's domicile.

XIV. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married or holds any office or employment in the service of Her Majesty, or has set up, with the consent of the parent, in any distinct business.

Domicile acquired by a woman on marriage.

XV. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before.

Wife's domicile during marriage.

XVI. The wife's domicile during the marriage follows the domicile of her husband.

Exception.—The wife's domicile no longer follows that of her husband if they be separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

Except in cases stated, minor cannot acquire a new domicile

XVII. Except in the cases above provided for, a person cannot during minority acquire a new domicile.

Lunatic's acquisition of new domicile.

XVIII. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person.

Succession to a person's moveable property in British India, in absence of proof of his domicile elsewhere.

XIX. If a man dies leaving moveable property in British India; in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India

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PART III.

Of Consanguinity.

Kindred or consanguinity.

XX. Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

XXI. Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather, and great-grandfather, and so upwards in the direct ascending line; or between a man, his son, grandson, great-grandson, and so downwards in the direct descending line. Every generation constitutes a decree, either ascending or descending. A man's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third.

Collateral consanguinity.

XXII. Collateral consanguinity is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other. For the purpose of ascertaining in what degree of kindred any collateral relative stands to a person deceased, it is proper to reckon upwards from the person deceased to the common stock,

and then downwards to the collateral relative, allowing a degree for each person, both ascending and descending.

Persons held for purpose of succession to be similarly related to the deceased.

XXIII. For the purpose of succession, there is no distinction between those who are related to a person deceased through his father and those who are related to him through his mother; nor between those who are related to him by the full blood, and those who are related to him by the half blood; nor between those who were actually born in his lifetime, and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive.

Mode of computing degrees of kindred.

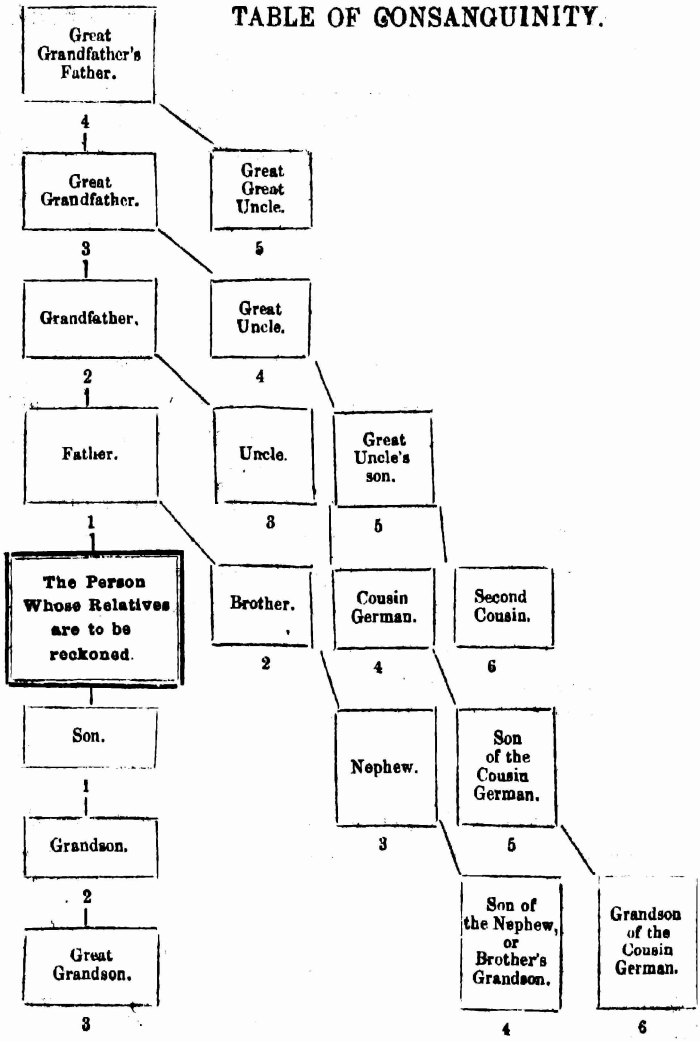
XXIV. In the annexed table of kindred the degrees are computed as far as the sixth, and are marked by numeral figures.

The person whose relatives are to be reckoned, and his cousin-german, or first cousin, are, as shown in the table, related in the fourth degree; there being one degree of ascent to the father, and another to the common ancestor the grandfather; and from him one of descent to the uncle, and another to the cousin-german; making in all four degrees.

A grandson of the brother and a son of the uncle, *i. e.*, a great-nephew and a cousin-german, are in equal degree, being each four degrees removed.

A grandson of a cousin-german is in the same degree as the grandson of a great-uncle, for they are both in the sixth degree of kindred.

TABLE OF CONSANGUINITY.



PART IV.

Of Intestacy.

As to what property a deceased person is considered to have died intestate.

XXV. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

(*a.*) A has left no Will. He has died intestate in respect of the whole of his property.

(*b.*) A has left a Will, whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c.*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d.*) A has bequeathed 1,000*l* to B, and 1,000*l* to the eldest son of C, and has made no other bequest; and has died leaving the sum of 2,000*l* and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000*l*.

Devolution of such property.

XXVI. Such property devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules herein prescribed.

Explanation.—The widow is not entitled to the provision hereby made for her, if by a valid contract made before her marriage she has been excluded from her distributive share of her husband's estate.

Where the intestate has left a widow and lineal descendants, or a widow and kindred only, or a widow and no kindred.

XXVII. Where the intestate has left a widow, if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules herein contained. If he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules herein contained. If he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Where the intestate has left no widow, and where he has left no kindred.

XXVIII. Where the intestate has left no widow, his property shall go to his lineal descendants, or to those who are of kindred to him, not being lineal descendants, according to the rules herein contained; and if he has left none who are of kindred to him, it shall go to the Crown.

PART V.

Of the Distribution of an Intestate's Property.

(a) Where he has left lineal descendants.

Rules of distribution.

XXIX. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants are as follows:—

Where the intestate has left a child or children only.

XXX. Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there be only one, or shall be equally divided among all his surviving children.

Where the intestate has left no child, but a grandchild or grandchildren.

XXXI. Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren, and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild, if there be only one, or shall be equally divided among all his surviving grandchildren.

Illustrations.

(*a*) A has three children, and no more; John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren shall have one-ninth.

(*b*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

(*c*) A has two children, and no more; John and Mary. John dies before his father, leaving his wife pregnant. Then A dies, leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and such posthumous child.

Where the intestate has left only great-grandchildren or lineal descendants in a remoter degree.

XXXII. In like manner the property shall go to the surviving lineal descendants who are nearest, in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where the intestate leaves lineal descendants not all in the same degree of kindred to him and those through whom the more remote descend are dead.

XXXIII. If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him; and one of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants, shall belong to his surviving child or children or more remote lineal descendants, as the case may be: such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

(*a*) A had three children, John, Mary, and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(*b*) A left no child, but left eight grandchildren, and two children of a deceased grandchild. The property is divided into nine parts, one of which is allotted to each grandchild; and the remaining one-ninth is equally divided between the two great-grandchildren.

(*c*) A has three children, John, Mary, and Henry. John dies leaving four children, and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry; one-third to Mary's child; and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(*b*) *Where the Intestate has left no lineal descendants.*

XXXIV. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) are as follows:—

Rules of distribution where the intestate has left no lineal descendants.

Where intestate's father is living.

XXXV. If the intestate's father be living, he shall succeed to the property.

Where intestate's father is dead but his mother, brothers and sisters are living.

XXXVI. If the intestate's father is dead, but the intestate's mother is living, and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother, but not of his father. The mother takes one-fourth, each brother takes one-fourth, and Mary, the sister of half blood, takes one-fourth.

Where intestate's father is dead and his mother, a brother or sister, and children of any deceased brother or sister are living.

XXXVII. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister, and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A the intestate leaves his mother, his brothers John and Henry, and also one child of a deceased sister Mary, and two children of George, a deceased brother of the half blood, who was the son of his father but not of his mother. The mother takes one-fifth, John and Henry each take one-fifth, the child of Mary takes one-fifth, and the two children of George divide the remaining one-fifth equally between them.

Where intestate's father is dead and his mother and the children of any deceased brother or sister are living.

XXXVIII. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Illustration.

A the intestate leaves no brother or sister, but leaves his mother and one child of a deceased sister Mary, and two children of a deceased brother George. The mother takes one-third, the child of Mary takes one-third, and the children of George divide the remaining one-third equally between them.

Where intestate's father is dead, but his mother is living and there is no brother nor sister nor nephew.

XXXIX. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate has left neither lineal descendant nor father nor mother.

XL. Where the intestate has left neither lineal descendant nor father nor mother, the property is divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor parent, nor brother nor sister.

XLI. If the intestate left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Illustrations.

(*a*) A, the intestate, has left a grandfather and a grandmother, and no other relative standing in the same or a nearer degree of kindred to him.

They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(*b*) A, the intestate, has left a great-grandfather or great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*c*) A, the intestate, left a great-grandfather, an uncle, and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree shall take equal shares.

(*d*) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They shall each take one-eleventh of the property.

Children's advancements not to be brought into hotchpot.

XLII. Where a distributive share in the property of a person who has died intestate shall be claimed by a child, or any descendant of a child of such person, no money or other property which the intestate may during his life have paid, given, or settled to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share.

PART VI.

Of the Effect of Marriage and Marriage Settlements on Property.

Rights of widower and widow respectively.

XLIII. The husband surviving his wife has the same rights in respect of her property, if she die intestate, as the widow has in respect of her husband's property, if he die intestate.

No rights to property not comprised in an antenuptial settlement, acquired by marriage between a person domiciled and a person not domiciled in British India.

XLIV. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

Settlement of minor's property in contemplation of marriage.

XLV. The property of a minor may be settled in contemplation of marriage, provided the settlement be made by the minor with the approbation of the minor's father, or if he be dead or absent from British India, with the approbation of the High Court.

PART VII.

Of Wills and Codicils.

Persons capable of making Wills.

XLVI. Every person of sound mind and not a minor may dispose of his property by Will.

Explanation 1.—A married woman may dispose by Will of any property which she could alienate by her own act during her life.

Explanation 2.—Persons who are deaf, or dumb, or blind are not thereby incapacitated for making a Will if they are able to know what they do by it.

Explanation 3.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

Explanation 4.—No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

Illustrations.

(*a*) A can perceive what is going on in his immediate neighbourhood, and can answer familiar questions, but has not a competent understanding as to the nature of his property, or the persons who are of kindred to him; or in whose favour it would be proper that he should make his Will. A cannot make a valid Will.

(*b*) A executes an instrument purporting to be his Will, but he does not understand the nature of the instrument nor the effect of its provisions. This instrument is not a valid Will.

(*c*) A being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property, makes his Will. This is a valid Will.

Testamentary Guardian.

XLVII. A father, whatever his age may be, may by Will appoint a guardian or guardians for his child during minority.

Will obtained by fraud, coercion or importunity.

XLVIII. A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Illustrations.

(*a*) A falsely and knowingly represents to the testator that the testator's only child is dead, or that he has done some undutiful act, and thereby induces the testator to make a Will in his, A's favour; such Will has been obtained by fraud, and is invalid.

(*b*) A by fraud and deception prevails upon the testator to bequeath a legacy to him. The bequest is void.

(*c*) A, being a prisoner by lawful authority, makes his Will. The Will is not invalid by reason of the imprisonment.

(*d*) A threatens to shoot B, or to burn his house, or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B in consequence makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(*e*) A being of sufficient intellect, if undisturbed by the influence of others, to make a Will, yet being so much under the control of B that he is not a free agent, makes a Will dictated by B. It appears that he would not have executed the Will but for fear of B. The Will is invalid.

(*f*) A being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a Will of a certain purport, and does so merely to purchase peace, and in submission to B. The Will is invalid.

(*g*) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a Will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his Will in the manner recommended by B. The Will is not rendered invalid by the intercession and persuasion of B.

(*h*) A, with a view to obtaining a legacy from B, pays him attention and flatters him, and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his Will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

Will may be revoked or altered.

XLIX. A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

PART VIII.

Of the Execution of unprivileged Wills.

Execution of unprivileged Wills.

L. Every testator, not being a soldier employed in an expedition, or engaged in actual warfare, or a mariner at sea, must execute his Will according to the following rules :—

First.—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

Second.—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

Third.—The Will shall be attested by two or more witnesses, each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

LI. If a testator, in a Will or Codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such document shall be considered as forming a part of the Will or Codicil in which it is referred to.

PART IX.

Of Privileged Wills.

Privileged Will.

LII. Any soldier being employed in an expedition, or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a Will made as is mentioned in the fifty-third Section. Such Wills are called privileged Wills.

Illustrations.

(*a*) A, the surgeon of a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged Will.

(*b*) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and being at sea can make a privileged Will.

(*c*) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged Will.

(*d*) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the words used in this clause, a mariner at sea, and can make a privileged Will.

(*e*) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged Will.

(*f*) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged Will.

Mode of making, and rules for executing privileged Wills.

LIII. Privileged Wills may be in writing, or may be made by word of mouth. The execution of them shall be governed by the following rules:—

First.—The Will may be written wholly by the testator, with his own hand. In such case it need not be signed nor attested.

Second.—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third.—If the instrument purporting to be a Will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his Will, if it be shown that it was written by the testator's directions, or that he recognized it as his Will. If it appear on the face of the instrument, that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

Fourth.—If the soldier or mariner shall have written instructions for the preparation of his Will, but shall have died

before it could be prepared and executed, such instructions shall be considered to constitute his Will.

Fifth.—If the soldier or mariner shall in the presence of two witnesses have given verbal instructions for the preparation of his Will, and they shall have been reduced into writing in his lifetime, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his Will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth.—Such soldier or mariner as aforesaid may make a Will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh.—A Will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged Will.

PART X.

Of the Attestation, Revocation, Alteration and Revival of Wills.

Effect of gift to attesting witness.

LIV. A Will shall not be considered as insufficiently attested by reason of any benefit thereby given, either by way of bequest or by way of appointment, to any person attesting it, or to his or her wife or husband: but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation.—A legatee under a Will does not lose his legacy by attesting a Codicil which confirms the Will.

Witness not disqualified by interest or by being executor.

LV.—No person, by reason of interest in or of his being an executor of a Will, is disqualified as a witness to prove the execution of the Will or to prove the validity or invalidity thereof.

Revocation of Will by testator's marriage.

LVI. Every Will shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the pro-

perty over which the power of appointment is exercised would not in default of such appointment pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Power of appointment defined.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

Revocation of unprivileged Will or Codicil.

LVII. No unprivileged Will or Codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another Will or Codicil, or by some writing declaring an intention to revoke the same, and executed in the manner in which an unprivileged Will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Illustrations.

(*a*) A has made an unprivileged Will; afterwards A makes another unprivileged Will which purports to revoke the first. This is a revocation.

(*b*) A has made an unprivileged Will. Afterwards, A being entitled to make a privileged Will, makes a privileged Will, which purports to revoke his unprivileged Will. This is a revocation.

Effect of obliteration, interlineation, or alteration in unprivileged Will.

LVIII. No obliteration, interlineation, or other alteration made in any unprivileged Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; save that the Will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

LIX. A privileged Will or Codicil may be revoked by the testator, by an unprivileged Will or Codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged Will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Revocation of privileged Will or Codicil.

Explanation.—In order to the revocation of a privileged Will or Codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged Will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged Will.

LX. No unprivileged Will or Codicil, nor any part thereof which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

Revival of unprivileged Will.

Extent of revival of Will or Codicil partly revoked and afterwards wholly revoked.

PART XI.

Of the Construction of Wills.

LXI. It is not necessary that any technical words or terms of art shall be used in a Will, but only that the wording shall be such that the intentions of the testator can be known therefrom.

Wording of Will.

LXII. For the purpose of determining questions as to what person or what property is denoted by any words used in a Will, a Court must inquire into every material fact relating to the persons who claim to be interested

Enquiries to determine questions as to object or subject of Will.

under such Will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(*a*) A, by his Will, bequeaths 1,000 rupees to his eldest son, or to his youngest grandchild, or to his cousin Mary. A Court may make inquiry in order to ascertain to what person the description in the Will applies.

(*b*) A, by his Will, leaves to B "his estate called Black Acre." It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*c*) A, by his Will, leaves to B "the estate which he purchased of C." It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

LXIII. Where the words used in the Will to designate or describe a legatee, or a class of legatees, sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect. A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Illustrations.

(*a*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother, named John, who has no son named Thomas, but has a second son whose name is William. William shall have the legacy.

(*b*) A bequeaths a legacy "to Thomas, the second son of his brother John." The testator has an only brother named John, whose first son is named Thomas, and whose second son is named William. Thomas shall have the legacy.

(*c*) The testator bequeaths his property "to A and B, the legitimate children of C." C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

(*d*) The testator gives his residuary estate to be divided among "his seven children," and proceeding to enumerate them, mentions six names only. This omission shall not prevent the seventh child from taking a share with the others.

(*e*) The testator having six grandchildren, makes a bequest to "his six grandchildren," and proceeding to mention them by their Christian names,

mentions one twice over, omitting another altogether. The one whose name is not mentioned shall take a share with the others.

(*f*) The testator bequeaths "1,000 rupees to each of the three children of A." At the date of the Will, A has four children. Each of these four children shall, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

LXIV. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of "five hundred" to his daughter A, and a legacy of "five hundred rupees" to his daughter B. A shall take a legacy of five hundred rupees.

Rejection of erroneous particulars in description of subject.

LXV. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the Will, but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Illustrations.

(*a*) A bequeaths to B, "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, but had no marsh lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh lands of the testator lying in L shall pass by the bequest.

(*b*) The testator bequeaths to A "his zamíndárí of Rampore." He had an estate at Rampore, but it was a taluk and not a zamíndárí. The taluk passes by this bequest.

When part of description may not be rejected as erroneous.

LXVI. If the Will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this Section, any words which would be liable to re-

jection under the sixty-fifth Section are to be considered as struck out of the Will.

Illustrations.

(*a*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X." The testator had marsh lands lying in L, some of which were in the occupation of X, and some not in the occupation of X. The bequest shall be considered as limited to such of the testator's marsh lands lying in L as were in the occupation of X.

(*b*) A bequeaths to B "his marsh lands lying in L, and in the occupation of X, comprising 1,000 bighás of land." The testator had marsh lands lying in L, some of which were in the occupation of X and some not in the occupation of X. The measurement is wholly inapplicable to the marsh lands of either class, or to the whole taken together. The measurement shall be considered as struck out of the Will, and such of the testator's marsh lands lying in L, as were in the occupation of X, shall alone pass by the bequest.

Extrinsic evidence admissible in case of latent ambiguity.

LXVII. Where the words of the Will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Illustrations.

(*a*) A man having two cousins of the name of Mary, bequeaths a sum of money to "his cousin Mary." It appears that there are two persons, each answering the description in the Will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*b*) A, by his Will, leaves to B "his estate called Sultánpur Khurd." It turns out that he had two estates called Sultánpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in cases of patent ambiguity or deficiency.

LXVIII. Where there is an ambiguity or deficiency on the face of the Will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Illustrations.

(*a*) A man has an aunt Caroline and a cousin Mary, and has no aunt of the name of Mary. By his Will he bequeaths 1,000 rupees to "his aunt Caroline" and 1,000 rupees to "his cousin Mary," and afterwards bequeaths

2,000 rupees to "his before-mentioned aunt Mary." There is no person to whom the description given in the Will can apply, and evidence is not admissible to show who was meant by "his before-mentioned aunt Mary." The bequest is therefore void for uncertainty under the seventy-sixth Section.

(*b*) A bequeaths 1,000 rupees to , leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*c*) A bequeaths to B rupees, or "his estate of Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning of any clause to be collected from entire Will.

LXIX. The meaning of any clause in a Will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other; and for this purpose a Codicil is to be considered as part of the Will.

Illustrations.

(*a*) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(*b*) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his Will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first, as if he had said, "I give Black Acre to B, and all the rest of my estate to A."

When words may be understood in a restricted sense, and when in a sense wider than usual.

LXX. General words may be understood in a restricted sense where it may be collected from the Will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the Will that the testator meant to use them in such wider sense.

Illustrations.

(*a*) A testator gives to A "his farm in the occupation of B," and to C "all his marsh lands in L." Part of the farm in the occupation of B consists of marsh lands in L, and the testator also has other marsh lands in L. The

general words, "all his marsh lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh lands in L.

(*b*) The testator (a sailor on ship-board) bequeathed to his mother his gold ring, buttons, and chest of cloths, and to his friend A (a shipmate) his red box, clasp-knife, and all things not before bequeathed. The testator's share in a house does not pass to A under this bequest.

(*c*) A, by his Will, bequeathed to B all his household furniture, plate, linen, china, books, pictures, and all other goods of whatever kind; and afterwards bequeathed to B a specified part of his property. Under the first bequest B is entitled only to such articles of the testator's as are of the same nature with the articles therein enumerated.

Where a clause is open to two constructions, that which has some effect is to be preferred.

LXXI. Where a clause is susceptible of two meanings, according to one of which it has some effect, and according to the other it can have none, the former is to be preferred.

No part of Will to be rejected, if reasonable construction can be put on it.

LXXII. No part of a Will is to be rejected as destitute of meaning if it is possible to put a reasonable construction upon it.

Interpretation of words repeated in different parts of Will.

LXXIII. If the same words occur in different parts of the same Will, they must be taken to have been used everywhere in the same sense, unless there appears an intention to the contrary.

Testator's intention to be effectuated as far as possible.

LXXIV. The intention of the testator is not to be set aside, because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

Illustration.

The testator by a Will made on his death-bed bequeathed all his property to C D for life, and after his decease to a certain hospital. The intention of the testator cannot take effect to its full extent, because the gift to the hospital is void under the hundred and fifth Section, but it shall take effect so far as regards the gift to C D.

The last of two inconsistent clauses prevails.

LXXV. Where two clauses or gifts in a Will are irreconcileable, so that they cannot possibly stand together, the last shall prevail.

Illustrations.

(*a*) The testator by the first clause of his Will leaves his estate of Rámnagar "to A," and by the last clause of his Will leaves it "to B and not to A," B shall have it.

(*b*) If a man at the commencement of his Will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition shall prevail.

Will or bequest void for uncertainty.

LXXVI. A Will or bequest not expressive of any definite intention is void for uncertainty.

Illustration.

If a testator says—"I bequeath goods to A;" or "I bequeath to A;" or "I leave to A all the goods mentioned in a Schedule," and no Schedule is found; or "I bequeath 'money,' 'wheat,' 'oil,' or the like," without saying how much, this is void.

Words describing subject refer to property answering that description at testator's death.

LXXVII. The description contained in a Will, of property the subject of gift, shall, unless a contrary intention appear by the Will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Power of appointment executed by general bequest.

LXXVIII. Unless a contrary intention shall appear by the Will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general manner shall be construed to include any property to which such description may extend, which he may have power to appoint by Will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to the objects of a power in default of appointment.

LXXIX. Where property is bequeathed to or for the benefit of such of certain objects as a specified person shall appoint; or for the benefit of certain objects in such proportions as a specified person shall appoint; and the Will does not provide for the event of no appointment being made; if

the power given by the Will be not exercised, the property belongs to all the objects of the power in equal shares.

Illustration.

A, by his Will, bequeaths a fund to his wife for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund shall be divided equally among the children.

Bequest to "heirs," &c., of a particular person without qualifying terms.

LXXX. Where a bequest is made to the "heirs," or "right heirs," or "relations," or "nearest relations," or "family," or "kindred," or "nearest of kin," or "next of kin," of a particular person, without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person, and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Illustrations.

(*a*) A leaves his property "to his own nearest relations." The property goes to those who would be entitled to it if A had died intestate, leaving assets for the payment of his debts independently of such property.

(*b*) A bequeaths 10,000 rupees "to B for his life, and after the death of B, to his own right heirs." The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*c*) A leaves his property to B; but if B dies before him, to B's next of kin: B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(*d*) A leaves 10,000 rupees "to B for his life, and after his decease, to the heirs of C." The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives," &c., of a particular person.

LXXXI. Where a bequest is made to the "representatives," or "legal representatives," or "personal representatives," or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as

if it had belonged to such person, and he had died intestate in respect of it.

Illustration.

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and shall apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus, B shall pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

LXXXII. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the Will that only a restricted interest was intended for him.

Bequest in the alternative.

LXXXIII. Where property is bequeathed to a person, with a bequest in the alternative to another person or to a class of persons;—if a contrary intention does not appear by the Will, the legatee first named shall be entitled to the legacy, if he be alive at the time when it takes effect; but if he be then dead the person or class of persons named in the second branch of the alternative shall take the legacy.

Illustrations.

(*a*) A bequest is made to A or to B. A survives the testator. B takes nothing.

(*b*) A bequest is made to A or to B. A dies after the date of the Will, and before the testator. The legacy goes to B.

(*c*) A bequest is made to A or to B. A is dead at the date of the Will. The legacy goes to B.

(*d*) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(*e*) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(*f*) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(*g*) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

Effect of words describing a class added to a bequest to a person.

LXXXIV. Where property is bequeathed to a person, and words are added which describe a class of persons, but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the Will.

Illustrations.

(*a*) A bequest is made—

to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(*b*) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(*c*) A bequest is made to A for life, and after his death to his issue. At the death of A the property belongs in equal shares to all persons who shall then answer the description of issue of A.

Bequest to a class of persons under a general description only.

LXXXV. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy.

Construction of terms.

LXXXVI. The word "children" in a Will applies only to lineal descendants in the first degree; the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "children," or "grandchildren," are spoken of; the words "nephews" and "nieces" apply only to children of brothers or sisters; the words "cousins" or "first cousins," or "cousins-

german" apply only to children of brothers or of sisters of the father or mother of the person whose "cousins," or "first cousins," or "cousins-german," are spoken of; the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent, of the person whose "first cousins once removed" are spoken of; the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of; the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of. Words expressive of collateral relationship apply alike to relatives of full and of half blood. All words expressive of relationship apply to a child in the womb who is afterwards born alive.

Words expressing relationship denote only legitimate relatives, or failing such, relatives reputed legitimate.

LXXXVII. In the absence of any intimation to the contrary in the Will, the term "child," "son," or "daughter," or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or where there is no such legitimate relative, a person who has acquired, at the date of the Will, the reputation of being such relative.

Illustrations.

(*a*) A, having three children, B, C, and D, of whom B and C are legitimate, and D is illegitimate, leaves his property to be equally divided among "his children." The property belongs to B and C in equal shares, to the exclusion of D.

(*b*) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(*c*) A, having in his Will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "his said children." B will take a share in the legacy along with the legitimate children.

(*d*) A leaves a legacy to the "children of B." B is dead, and has left none but illegitimate children. All those who had, at the date of the Will, acquired the reputation of being the children of B are objects of the gift.

(*e*) A bequeathed a legacy to "the children of B." B never had any legitimate child. C and D had at the date of the Will acquired the reputation

of being children of B. After the date of the Will, and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(*f*) A makes a bequest in favour of his child by a certain woman, not his wife. B had acquired at the date of the Will the reputation of being the child of A by the woman designated. B takes the legacy.

(*g*) A makes a bequest in favour of his child to be born of a woman, who never becomes his wife. The bequest is void.

(*h*) A makes a bequest in favour of the child of which a certain woman, not married to him, is pregnant. The bequest is valid.

Rules of construction where a Will purports to make two bequests to the same person.

LXXXVIII. Where a Will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first; if there is nothing in the Will to show what he intended, the following rules shall prevail in determining the construction to be put upon the Will:—

First.—If the same specific thing is bequeathed twice to the same legatee in the same Will, or in the Will and again in a Codicil, he is entitled to receive that specific thing only.

Second.—Where one and the same Will or one and the same Codicil purports to make in two places a bequest to the same person of the same quantity or amount of any thing, he shall be entitled to one such legacy only.

Third.—Where two legacies of unequal amount are given to the same person in the same Will, or in the same Codicil, the legatee is entitled to both.

Fourth.—Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a Will and the other by a Codicil, or each by a different Codicil, the legatee is entitled to both legacies.

Explanation.—In the four last rules, the word Will does not include a Codicil.

Illustrations.

(*a*) A having ten shares, and no more, in the Bank of Bengal, made his Will, which contains near its commencement the words "I bequeath my ten shares in the Bank of Bengal to B." After other bequests, the Will

concludes with the words "and I bequeath my ten shares in the Bank of Bengal to B." B is entitled simply to receive A's ten shares in the Bank of Bengal.

(*b*) A having one diamond ring which was given him by B, bequeathed to C the diamond ring which was given him by B. A afterwards made a Codicil to his Will, and thereby, after giving other legacies, he bequeathed to C the diamond ring which was given him by B. C can claim nothing except the diamond ring which was given to A by B.

(*c*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, in the same Will, repeats the bequest in the same words. B is entitled to one legacy of 5,000 rupees only.

(*d*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and afterwards, by the same Will, bequeaths to B the sum of 6,000 rupees. B is entitled to 11,000 rupees.

(*e*) A, by his Will, bequeaths to B 5,000 rupees and by a Codicil to the Will he bequeaths to him 5,000 rupees. B is entitled to receive 10,000 rupees.

(*f*) A, by one Codicil to his Will, bequeaths to B 5,000 rupees, and by another Codicil, bequeaths to him 6,000 rupees. B is entitled to receive 11,000 rupees.

(*g*) A, by his Will, bequeaths "500 rupees to B because she was his nurse," and in another part of the Will bequeaths 500 rupees to B "because she went to England with his children." B is entitled to receive 1,000 rupees.

(*h*) A, by his Will, bequeaths to B the sum of 5,000 rupees, and also, in another part of the Will, an annuity of 400 rupees. B is entitled to both legacies.

(*i*) A, by his will, bequeaths to B the sum of 5,000 rupees, and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

Constitution of residuary legatee.

LXXXIX. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Illustrations.

(*a*) A makes her Will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, &c., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to." B is constituted residuary legatee.

(*b*) A makes his Will, with the following passage at the end of it:—"I believe there will be found sufficient in "my banker's hands to defray and discharge my debts, which "I hereby desire B to do, and keep the residue for her "own use and pleasure." B is constituted the residuary legatee.

(*c*) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

Property to which a residuary legatee is entitled.

XC. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is cabable of taking effect.

Illustration.

A by his Will bequeaths certain legacies, one of which is void under the hundred and fifth Section and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his Will, A purchases a zamíndárí, which belongs to him at the time of his death. B is entitled to the two legacies and the zamíndárí as part of the residue.

Time of vesting of legacy in general terms.

XCI. If a legacy be given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and if he dies without having received it, it shall pass to his representatives.

In what case a legacy lapses.

XCII. If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appear by the Will that the testator intended that it should go to some other person. In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

Illustrations.

(*a*) The testator bequeaths to B "500 rupees which B owes him." B dies before the testator; the legacy lapses.

(*b*) A bequest is made to A and his children. A dies before the testator or happens to be dead when the Will is made. The legacy to A and his children lapses.

(*c*) A legacy is given to A, and in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(*d*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(*e*) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(*f*) The testator and the legatee perished in the same shipwreck. There is no evidence to show which died first. The legacy will lapse.

A legacy does not lapse if one of two joint legatees die before the testator.

XCIII. If a legacy be given to two persons jointly, and one of them die before the testator, the other legatee takes the whole.

Illustration.

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

Effect in such a case, of words showing testator's intention that the shares should be distinct.

XCIV. But where a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then if any legatee die before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property.

Illustration.

A sum of money is bequeathed to A, B, and C to be equally divided among them. A dies before the testator. B and C shall only take so much as they would have had if A had survived the testator.

When lapsed share goes as undisposed of.

XCV. Where the share that lapses is a part of the general residue bequeathed by the Will, that share shall go as undisposed of.

Illustration.

The testator bequeaths the residue of his estate to A, B, and C, to be equally divided between them. A dies before the testator. His one-third of the residue goes as undisposed of.

When a bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime.

XCVI. Where a bequest shall have been made to any child or other lineal descendant of the testator, and the legatee shall die in the lifetime of the testator, but any lineal descendant of his shall survive the testator,

the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Illustration.

A makes his Will, by which he bequeaths a sum of money to his son B for his own absolute use and benefit. B dies before A, leaving a son C who survives A, and having made his Will whereby he bequeaths all his property to his widow D. The money goes to D.

Bequest to A for the benefit of B does not lapse by A's death in testator's lifetime.

XCVII. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made.

Survivorship in case of bequest to a described class.

XCVIII. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as shall be alive at the testator's death.

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise, the property shall at that time go to such of them as shall be then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(*a*) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the Will, leaving three children, C, D, and E. E died after the date of the Will, but before the death of A. C and D survive A. The legacy shall belong to C and D, to the exclusion of the representatives of E.

(*b*) A bequeaths a legacy to the children of B. At the time of the testator's death, B has no children. The bequest is void.

(*c*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living C and D; and he never had any other child. Afterwards, during the lifetime of A, C died, leaving E his executor. D has survived A. D and E are jointly entitled to so much of the leasehold term as remains unexpired.

(*d*) A sum of money was bequeathed to A for life, and after her decease to the children of B. At the death of the testator, B had two children living C and D, and after that event, two children, E and F, were born to B. C and E died in the lifetime of A, C having made a Will, E having made no Will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E, and one to F.

(*e*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B; D and E have survived B. One-third of A's lands belongs to D, E, and the representatives of C, in equal shares.

(*f*) A bequeaths 1,000 rupees to B for life, and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*g*) A bequeaths 1,000 rupees to "all the children born or to be born" of B, to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F, and G, to the exclusion of the after-born child of B.

(*h*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living named C. He afterwards had two other children named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

PART XII.

Of void Bequests.

Bequest to a person by a particular description, who is not in existence at the testator's death.

XCIX. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Exception.—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest, or otherwise; and if a person answering the description is alive

at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or if he be dead, to his representatives.

Illustrations.

(*a*) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator B has no son. The bequest is void.

(*b*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death, the legacy goes to C's son.

(*c*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son; afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(*d*) A bequeaths his estate of Greenacre to B for life, and at his decease to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(*e*) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator, C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

Bequest to a person not in existence at the testator's death, subject to a prior bequest.

C. Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the Will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed.

Illustrations.

(*a*) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is valid.

(*b*) A fund is bequeathed to A for his life, and after his death to his daughters. A survives the testator. A has daughters, some of whom were not in existence at the testator's death. The bequest to A's daughters comprises the whole interest that remains to the testator in the thing bequeathed. The bequest to A's daughters is valid.

(*c*) A fund is bequeathed to A for his life, and after his death to his daughters, with a direction that if any of them marries under the age of

eighteen, her portion shall be settled so that it may belong to herself for life, and may be divisible among her children after her death. A has no daughters living at the time of the testator's death, but has daughters born afterwards who survive him. Here the direction for a settlement has the effect, in the case of each daughter who marries under eighteen, of substituting for the absolute bequest to her a bequest to her merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

(*d*) A bequeaths a sum of money to B for life, and directs that upon the death of B the fund shall be settled upon his daughters, so that the portion of each daughter may belong to herself for life, and may be divided among her children after her death. B has no daughter living at the time of the testator's death. In this case the only bequest to the daughters of B is contained in the direction to settle the fund, and this direction amounts to a bequest, to persons not yet born, of a life-interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

Rule against perpetuity.

CI. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's decease, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong.

Illustrations.

(*a*) A fund is bequeathed to A for his life; and after his death to B for his life; and after B's death to such of the sons of B as shall first attain the age of 25. A and B survive the testator. Here the son of B who shall first attain the age of 25, may be a son born after the death of the testator; such son may not attain 25 until more than 18 years have elapsed from the death of the longer liver of A and B; and the vesting of the fund may thus be delayed beyond the lifetime of A and B, and the minority of the sons of B. The bequest after B's death is void.

(*b*) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(*c*) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18; but that, if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(*d*) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughter whose share it was. All these provisions are valid.

Bequest to a class, some of whom may come under the rules in Sections 100 and 101.

CII. If a bequest is made to a class of persons with regard to some of whom it is inoperative by reason of the rules contained in the two last preceding Sections, or either of them, such bequest shall be wholly void.

Illustrations.

(*a*) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death; and as it is given to all his children as a class, it is not good as to any division of that class, but is wholly void.

(*b*) A fund is bequeathed to A for his life, and after his death to B, C, D, and all other the children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in Illustration (*a*). The mention of B, C and D by name does not prevent the bequest from being regarded as a bequest to a class, and the bequest is wholly void.

Bequest to take effect on failure of bequest void under Section 100, 101 or 102.

CIII. Where a bequest is void by reason of any of the rules contained in the three last preceding Sections, any bequest contained in the same Will, and intended to take effect after or upon failure of such prior bequest, is also void.

Illustrations.

(*a*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son, to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

(*b*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and, if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under Section 101. The bequest to B is void.

Effect of direction for accumulation.

CIV. A direction to accumulate the income arising from any property shall be void; and the property shall be disposed of as if no accumulation had been directed.

Exception.—Where the property is immoveable, or where accumulation is directed to be made from the death of the testator, the direction shall be valid in respect only of the income arising from the property within one year next following the testator's death; and at the end of the year such property and income shall be disposed of respectively, as if the period during which the accumulation has been directed to be made had elapsed.

Illustrations.

(*a*) The Will directs that the sum of 10,000 rupees shall be invested, in Government securities, and the income accumulated for 20 years, and that the principal together with the accumulations, shall then be divided between A, B, and C. A, B, and C are entitled to receive the sum of 10,000 rupees at the end of the year from the testator's death.

(*b*) The Will directs that 10,000 rupees shall be invested, and the income accumulated until A shall marry, and shall then be paid to him. A is entitled to receive 10,000 rupees at the end of a year from the testator's death.

(*c*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulation shall be then paid to the eldest son of A. At the death of the testator, A has an eldest son living, named B. B shall receive at the end of one year from the testator's death the rents which have accrued during the year, together with any interest which may have been made by investing them.

(*d*) The Will directs that the rents of the farm of Sultánpur shall be accumulated for ten years, and that the accumulations shall then be paid to the eldest son of A. At the death of the testator, A has no son. The bequest is void.

(*e*) A bequeaths a sum of money to B, to be paid to him when he shall attain the age of 18, and directs the interest to be accumulated till he shall arrive at that age. At A's death the legacy becomes vested in B; and so much of the interest as is not required for his maintenance and education is accumulated, not by reason of the direction contained in the Will, but in consequence of B's minority.

Bequest to religious or charitable uses.

CV. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a Will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the Wills of living persons.

Illustration.

A having a nephew makes a bequest by a Will not executed nor deposited as required—

For the relief of poor people;
For the maintenance of sick soldiers;
For the erection or support of a hospital;
For the education and preferment of orphans;
For the support of scholars;
For the erection or support of a school;
For the building and repairs of a bridge;
For the making of roads;
For the erection or support of a church;
For the repairs of a church.
For the benefit of ministers of religion;
For the formation or support of a public garden.

All these bequests are void.

PART XIII.

Of the Vesting of Legacies.

Date of vesting of legacy when payment or possession postponed.

CVI. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary

intention appears by the Will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy. And in such cases the legacy is from the testator's death said to be vested in interest.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that if a particular event shall happen, the legacy shall go over to another person.

Illustrations.

(*a*) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(*b*) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(*c*) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*d*) A fund is bequeathed to A until B attains the age of 18, and then to B. The legacy to B is vested in interest from the testator's death.

(*e*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*f*) A fund is bequeathed to A, B, and C in equal shares, to be paid to them on their attaining the age of 18 respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vest in interest in A, B and C, subject to be devested in case A, B and C shall all die under 18, and upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy is contingent upon a specified uncertain event.

CVII. A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens. A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of

that event becomes impossible. In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the Will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit; the bequest of the fund is not contingent.

Illustrations.

(*a*) A legacy is bequeathed to D in case A, B, and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B, and C all die under 18, or one of them attains that age.

(*b*) A sum of money is bequeathed to A "in case he shall attain the age of 18," or "when he shall attain the age of 18." A's interest in the legacy is contingent until the condition shall be fulfilled by his attaining that age.

(*c*) An estate is bequeathed to A for life, and after his death to B, if B shall then be living, but, if B shall not be then living, to C. A, B, and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other shall have happened.

(*d*) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(*e*) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that, if she shall not attain 18, or marry under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy, although she may have married under 18 without the consent of B.

(*f*) An estate is bequeathed to A until he shall marry, and after that event to B. B's interest in the bequest is contingent until the condition shall be fulfilled by A's marrying.

(*g*) An estate is bequeathed to A until he shall take advantage of the Act for the relief of Insolvent Debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of the Act.

(*h*) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.

(*i*) A leaves his farm of Sultánpur Khurd to B, if B shall convey his own farm of Sultánpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(*j*) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent, until the

condition shall be fulfilled by the expiration of the five years without B's having married C, or by the occurrence, within that period, of an event which makes the fulfilment of the condition impossible.

(*k*) A fund is bequeathed to A if B shall not make any provision for him by Will. The legacy is contingent until B's death.

(*l*) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.

(*m*) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Vesting of interest in a bequest to such members of a class as shall have attained a particular age.

CVIII. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Illustration.

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that, while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child of A, who is under the age of 18, has a vested interest in the bequest.

PART XIV.

Of Onerous Bequests.

Onerous bequest.

CIX. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Illustration.

A having shares in (X) a prosperous joint stock company, and also shares in (Y) a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies. B refuses to accept the shares in (Y). He forfeits the shares in (X).

One of two separate and independent bequests to same person may be accepted, and the other refused.

CX. Where a Will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

Illustration.

A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He shall not by this refusal forfeit the money.

PART XV.

Of Contingent Bequests.

Bequest contingent upon a specified uncertain event, no time being mentioned for its occurrence.

CXI. Where a legacy is given if a specified uncertain event shall happen, and no time is mentioned in the Will for the occurrence of that event, the legacy cannot take effect unless such event happens before the period when the fund bequeathed is payable or distributable.

Illustrations.

(*a*) A legacy is bequeathed to A, and in case of his death, to B. If A survives the testator the legacy to B does not take effect.

(*b*) A legacy is bequeathed to A, and in case of his death without children to B. If A survives the testator, or dies in his lifetime leaving a child, the legacy to B does not take effect.

(*c*) A legacy is bequeathed to A when and if he attains the age of 18, and in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(*d*) A legacy is bequeathed to A for life, and after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children" are to be understood as meaning in case B shall die without children during the lifetime of A.

(*e*) A legacy is bequeathed to A for life, and after his death to B, and, "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B shall die in the lifetime of A."

Bequest to such of certain persons as shall be surviving at some period not specified.

CXII. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as shall be alive at the time of payment or distribution, unless a contrary intention appear by the Will.

Illustrations.

(*a*) Property is bequeathed to A and B, to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the

legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(*b*) Property is bequeathed to A for life, and after his death to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(*c*) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(*d*) Property is bequeathed to A for life, and after his death to B and C, with a direction that, in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

PART XVI.

Of Conditional Bequests.

Bequest upon impossible condition.

CXIII. A bequest upon an impossible condition is void.

Illustrations.

(*a*) An estate is bequeathed to A on condition that he shall walk one hundred miles in an hour. The bequest is void.

(*b*) A bequeaths 500 rupees to B on condition that he shall marry A's daughter. A's daughter was dead at the date of the Will. The bequest is void.

Bequest upon illegal or immoral condition.

CXIV. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void.

Illustrations.

(*a*) A bequeaths 500 rupees to B on condition that he shall murder C. The bequest is void.

(*b*) A bequeaths 5,000 rupees to his niece if she will desert her husband. The bequest is void.

Fulfilment of condition precedent to the vesting of a legacy.

CXV. Where a Will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with.

Illustrations.

(*a*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, D and E. A marries with the written consent of B. C is present at the marriage. D sends a present to A previous to the marriage. E has been personally informed by A of his intentions, and has made no objection. A has fulfilled the condition.

(*b*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. D dies. A marries with the consent of B and C. A has fulfilled the condition.

(*c*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries in the lifetime of B, C, and D, with the consent of B and C only. A has not fulfilled the condition.

(*d*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A obtains the unconditional assent of B, C, and D to his marriage with E. Afterwards B, C, and D capriciously retract their consent. A marries E. A has fulfilled the condition.

(*e*) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C, and D. A marries without the consent of B, C, and D, but obtains their consent after the marriage. A has not fulfilled the condition.

(*f*) A makes his Will, whereby he bequeaths a sum of money to B, if B shall marry with the consent of A's executors. B marries during the lifetime of A, and A afterwards expresses his approbation of the marriage. A dies. The bequest to B takes effect.

(*g*) A legacy is bequeathed to A if he executes a certain document within a time specified in the Will. The document is executed by A within a reasonable time, but not within the time specified in the Will. A has not performed the condition, and is not entitled to receive the legacy.

Bequest to A and, on failure of the prior bequest, to B.

CXVI. Where there is a bequest to one person and a bequest of the same thing to another if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest, although the failure may not have occurred in the manner contemplated by the testator.

Illustrations.

(*a*) A bequeaths a sum of money to his own children surviving him, and, if they all die under 18, to B. A dies without having ever had a child. The bequest to B takes effect.

(*b*) A bequeaths a sum of money to B, on condition that he shall execute a certain document within three months after A's death, and if he should neglect to do so, to C. B dies in the testator's lifetime. The bequest to C takes effect.

Case in which the second bequest shall not take effect on failure of the first.

CXVII. Where the Will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect unless the prior bequest fails in that particular manner.

Illustration.

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The bequest to B does not take effect.

Bequest over, conditional upon the happening or not happening of a specified uncertain event.

CXVIII. A bequest may be made to any person with the condition superadded that in case a specified uncertain event shall happen, the thing bequeathed shall go to another person; or, that in case a specified uncertain event shall not happen, the thing bequeathed shall go over to another person. In each case the ulterior bequest is subject to the rules contained in Sections 107, 108, 109, 110, 111, 112, 113, 114, 116, 117.

Illustrations.

(*a*) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be devested and to go to B in case A shall die under 18.

(*b*) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a Will, the estate shall go to B. A disputes the competency of the testator to make a Will. The estate goes to B.

(*c*) A sum of money is bequeathed to A for life, and after his death to B, but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be devested if he dies leaving a son in A's lifetime.

(*d*) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(*e*) A bequeaths to B the interest of a fund for life, and directs the fund to be divided, at her death, equally among her three children, or such of them

as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

condition must be strictly fulfilled.

CXIX. An ulterior bequest of the kind contemplated by the last preceding Section cannot take effect, unless the condition is strictly fulfilled.

Illustrations.

(*a*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(*b*) A legacy is bequeathed to A, with a proviso that if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(*c*) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that if A dies under 18, or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

CXX. If the ulterior bequest be not valid, the original bequest is not affected by it.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a condition superadded that if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the Will.

(*b*) An estate is bequeathed to A for her life, and of she do not desert her husband, to B. A is entitled to the estate during her life as if no condition had been inserted in the Will.

(*c*) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life. B, at the date of the testator's death, had not had a son. The bequest over is void under Section 92, and A is entitled to the estate during his life.

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen or not happen.

CXXI. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Illustrations.

(*a*) An estate is bequeathed to A for his life, with a proviso that in case he shall cut down a certain wood, the bequest shall cease to have any effect. A cuts down the wood; he loses his life-interest in the estate.

(*b*) An estate is bequeathed to A, provided that if he marries under the age of 25 without the consent of the executors named in the Will, the estate shall cease to belong to him. A marries under 25 without the consent of the executors. The estate ceases to belong to him.

(*c*) An estate is bequeathed to A, provided that if he shall not go to England within three years after the testator's death, his interest in the estate shall cease. A does not go to England within the time prescribed. His interest in the estate ceases.

(*d*) An estate is bequeathed to A, with a proviso that if she becomes a Nun she shall cease to have any interest in the estate. A becomes a Nun. She loses her interest under the Will.

(*e*) A fund is bequeathed to A for life, and after his death to B, if B shall be then living, with a proviso that if B shall become a Nun, the bequest to her shall cease to have any effect. B becomes a Nun in the lifetime of A. She thereby loses her contingent interest in the fund.

Such condition must not be invalid under Section 107.

CXXII. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as comtemplated by the one hundred and seventh Section.

Result of legatee rendering impossible or indefinitely postponing an act for which no time is specified and on the non-performance of which the subject-matter is to go over.

CXXIII. Where a bequest is made with a condition superadded that unless the legatee shall perform a certain act, the subject-matter of the bequest shall go to another person, or the bequest shall cease to have effect; but no time is specified for the performance of the act; if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act.

Illustrations.

(*a*) A bequest is made to A with a proviso that unless he enters the army the legacy shall go over to B. A takes holy orders, and thereby renders it

impossible that he should fulfil the condition. B is entitled to receive the legacy.

(*b*) A bequest is made to A with a proviso that it shall cease to have any effect if he does not marry B's daughter. A marries a stranger, and thereby indefinitely postpones the fulfilment of the condition. The bequest ceases to have effect.

Performance of condition, precedent or subsequent within specified time.

CXXIV. Where the Will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject-matter of the bequest is to go over to another person, or the bequest is to cease to have effect; the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud.

Further time allowed in case of fraud.

PART XVII.

Of Bequests with Directions as to Application or Enjoyment.

Direction that funds be employed in a particular manner following an absolute bequest of the same to or for the benefit of any person.

CXXV. Where a fund is bequeathed absolutely to or for the benefit of any person, but the Will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the Will had contained no such direction.

Illustration.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to purchase a commission in the Army for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

Direction that a mode of enjoyment of absolute bequest is to be restricted to secure a specified benefit for the legatee.

CXXVI. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the Will had contained no such direction.

Illustrations.

(*a*) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life, and be paid to their children after their death. All the daughters die unmarried, the representatives of each daughter are entitled to her share of the residue.

(*b*) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund, and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of a fund for certain purposes, some of which cannot be fulfilled.

CXXVII. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the Will, remains a part of the estate of the testator.

Illustrations.

(*a*) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children ; the son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(*b*) A bequeaths the residue of his estate to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

PART XVIII.

Of Bequests to an Executor.

Legatee named as executor cannot take unless he shews intention to act as executor.

CXXVIII. If a legacy is bequeathed to a person who is named an executor of the Will, he shall not take the legacy unless he proves the Will or otherwise manifests an intention to act as executor.

Illustration.

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the Will, and dies a few days after the testator, without having proved the Will. A has manifested an intention to act as executor.

PART XIX.

Of Specific Legacies.

Specific legacy defined.

CXXIX. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific.

Illustrations.

(*a*) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods, which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."

"The sum of 1,000 rupees in a certain chest."

"The debt which B owes him."

"All his bills, bonds, and securities belonging to him, lying in his lodgings in Calcutta."

"All his furniture in his house in Calcutta."

"All his goods on board a certain ship then lying in the River Hooghly."

"2,000 rupees which he has in the hands of C."

"The money due to him on the bond of D."

"His mortgage on the Rampore Factory."

"One-half of the money owing to him on his mortgage of Rampore Factory."

"1,000 rupees, being part of a debt due to him from C."

"His capital Stock of 1,000*l.* in East India Stock."

"His promissory notes of the Government of India, for 10,000 rupees in their 4 per cent. loan."

"All such sums of money as his executors may, after his death, receive in respect of the debt due to him from the insolvent firm of D and Company."

"All the wine which he may have in his cellar at the time of his death."

"Such of his horses as B may select."

"All his shares in the Bank of Bengal."

"All the shares in the Bank of Bengal which he may possess at the time of his death."

"All the money which he has in the 5½ per cent. loan of the Government of India."

"All the Government securities he shall be entitled to at the time of his decease."

Each of these legacies is specific.

(*b*) A having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees, in trust to sell" for the benefit of B.

The legacy is specific.

(*c*) A having property at Benares, and also in other places, bequeaths to B all his property at Benares.

The legacy is specific.

(*d*) A bequeaths to B—

His house in Calcutta.

His zamíndárí of Rampore.

His taluk of Rámnagar.

His lease of the Indigo factory of Sulkea.

An annuity of 500 rupees out of the rents of his zamíndárí of W.

A directs his zamíndárí of X to be sold, and the proceeds to be invested for the benefit of B.

Each of these bequests is specific.

(*e*) A by his Will charges his zamíndárí of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamíndárí to D. Each of these bequests is specific.

(*f*) A bequeaths a sum of money to buy a house in Calcutta for B.

To buy an estate in Zillah Fureedpore for B.

To buy a diamond ring for B.

To buy a horse for B.

To be invested in shares in the Bank of Bengal for B.

To be invested in Government securities for B.

A bequeaths to B—

"A diamond ring."

"A horse."

"10,000 rupees worth of Government securities."

"An annuity of 500 rupees."

"2,000 rupees, to be paid in cash."

"So much money as will produce 5,000 rupees 4 per cent. Government securities."

These bequests are not specific.

(*g*) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of the property which he may leave in England.

No one of these legacies is specific.

Bequest of a sum certain where the stocks, &c. in which it is invested are described.

CXXX. Where a sum certain is bequeathed, the legacy is not specific merely because the stocks, funds, or securities in which it is invested are described in the Will.

Illustration.

A bequeaths to B—

"10,000 rupees of his funded property."

"10,000 rupees of his property now invested in Shares of the East Indian Railway Company."

"10,000 rupees, at present secured by mortgage of Rampore Factory."

No one of these legacies is specific.

Bequest of stock where the testator had at the date of his Will an equal or greater amount of stock of the same kind.

CXXXI. Where a bequest is made in general terms, of a certain amount of any kind of stock, the legacy is not specific merely because the testator was at the date of his Will possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Illustration.

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the Will five per cent. Government securities for 5,000 rupees.

The legacy is not specific.

Bequest of money where it is not to be paid until some part of the testator's property shall have been disposed of in a certain way.

CXXXII. A money legacy is not specific merely because the Will directs its payment to be postponed until some part of the property of the testator shall have been reduced to a certain form, or remitted to a certain place.

Illustration.

A bequeaths to B 10,000 rupees, and directs that this legacy shall be paid as soon as A's property in India shall be realized in England.

The legacy is not specific.

When enumerated articles are not to be deemed to be specifically bequeathed.

CXXXIII. Where a Will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed, the articles enumerated shall not be deemed to be specifically bequeathed.

Retention, in form, of specific bequest to several persons in succession.

CXXXIV. Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it, although it may be of such a nature that its value is continually decreasing.

Illustrations.

(*a*) A having a lease of a house for a term of years, 15 of which were unexpired at the time of his death, has bequeathed the lease to B for his life, and after B's death to C. B is to enjoy the property as A left it, although if B lives for 15 years, C can take nothing under the bequest.

(*b*) A having an annuity during the life of B, bequeaths it to C for his life, and after C's death to D. C is to enjoy the annuity as A left it, although, if B dies before D, D can take nothing under the bequest.

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

CXXXV. Where property comprised in a bequest to two or more persons in succession, is not specifically bequeathed, it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the Will.

Illustration.

A, having a lease for a term of years, bequeaths "all his property" to B for life, and after B's death, to C. The lease must be sold, and the proceeds invested as stated in the text, and the annual income arising from the fund is to be paid to B for life. At B's death the capital of the fund is to be paid to C.

Where there is a deficiency of assets to pay legacies, specific legacy not liable to abate with general legacies.

CXXXVI. If there be a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies.

PART XX.

Of Demonstrative Legacies.

Demonstrative legacy defined.

CXXXVII. Where a testator bequeaths a certain sum of money or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that where specified

property is given to the legatee, the legacy is specific; where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*a*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific; the legacy to C is demonstrative.

(*b*) A bequeaths to B "ten bushels of the corn which shall grow in his field of Greenacre."

"80 chests of the Indigo which shall be made at his factory of Rampore."

"10,000 rupees out of his five per cent. promissory notes of the Government of India."

An annuity of 500 rupees "from his funded property."

"1,000 rupees out of the sum of 2,000 rupees due to him by C."

A bequeaths to B an annuity, and directs it to be paid out of the rents arising from his taluk of Rámnagar.

A bequeaths to B "10,000 rupees out of his estate at Rámnagar," or charges it on his estate at Rámnagar.

"10,000 rupees, being his share of the capital embarked in a certain business."

Each of these bequests is demonstrative.

Order of payment when legacy is directed to be paid out of a fund the subject of a specific legacy.

CXXXVIII. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund, and so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

PART XXI.

Of Ademption of Legacies.

Ademption explained.

CXXXIX. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed;

that is, it cannot take effect by reason of the subject-matter having been withdrawn from the operation of the Will.

Illustrations.

(*a*) A bequeaths to B—

"The diamond ring presented to him by C."

"His gold chain."

"A certain bale of wool."

"A certain piece of cloth."

"All his household goods which shall be in or about his dwelling-house in M Street, in Calcutta, at the time of his death."

A, in his lifetime,

Sells or gives away the ring.

Converts the chain into a cup.

Converts the wool into cloth.

Makes the cloth into a garment.

Takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(*b*) A bequeaths to B—

"The sum of 1,000 rupees in a certain chest."

"All the horses in his stable."

At the death of A, no money is found in the chest, and no horses in the stable.

The legacies are adeemed.

(*c*) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned.

The legacy is adeemed

Non-ademption of demonstrative legacy.

CXL. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the Will does not exist at the time of the death of the testator, or has been converted into property of a different kind; but it shall in such case be paid out of the general assets of the testator.

Ademption of specific bequest of right to receive something from a third party.

CXLI. Where the thing specifically bequeathed is the right to receive something of value from third party, and the testator himself receives it, the bequest is adeemed.

Illustrations.

(*a*) A bequeaths to B—

"The debt which C owes him."

"2,000 rupees which he has in the hands of D."

"The money due to him on the bond of E."

"His mortgage on the Rampore Factory."

All these debts are extinguished in A's lifetime, some with and some without his consent.

All the legacies are adeemed.

(*b*) A bequeaths to B—

"His interest in certain policies of life assurance."

A in his lifetime receives the amount of the policies. The legacy is adeemed.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

CXLII. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Illustration.

A bequeaths to B "the debt due to him by C." The debt amounts to 10,000 rupees. C pays to A 5,000 rupees, the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

Ademption *pro tanto* by testator's receipt of portion of an entire fund of which a portion has been specifically bequeathed.

CXLIII. If a portion of an entire fund or stock be specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Illustration.

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

Order of payment where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund to another, and the testator having received a portion of that fund, the remainder is insufficient to pay both legacies.

CXLIV. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee; if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and

the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives 500 rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

CXLV. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—

"His capital stock of 1,000*l.* in East India Stock."

"His promissory notes of the Government of India for 10,000 rupees in their 4 per cent. loan."

A sells the stock and the notes.

The legacies are adeemed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

CXLVI. Where stock which has been specifically bequeathed, does only in part exist at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Illustration.

A bequeaths to B—

"His 10,000 rupees in the 5½ per cent. loan of the Government of India."

A sells one-half of his 10,000 rupees in the loan in question.

One-half of the legacy is adeemed.

Non-ademption of specific bequest of goods described as connected with a certain place by reason of removal.

CXLVII. A specific bequest of goods under a description connecting them with a certain place, is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud, or without the knowledge or sanction of the testator.

Illustrations.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." The goods are removed

from the house to save them from fire. A dies before they are brought back.

A bequeaths to B "all his household goods which shall be in or about his dwelling-house in Calcutta at the time of his death." During A's absence upon a journey, the whole of the goods are removed from the house. A dies without having sanctioned their removal.

Neither of these legacies is adeemed.

When removal of thing bequeathed does not constitute ademption.

CXLVIII. The removal of the thing bequeathed, from the place in which it is stated in the Will to be situated, does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath.

Illustrations.

A bequeaths to B all the bills, bonds, and other securities for money belonging to him then lying in his lodgings in Calcutta. At the time of his death, these effects had been removed from his lodgings in Calcutta.

A bequeaths to B all his furniture then in his house in Calcutta. The testator has a house at Calcutta and another at Chinsurah, in which he lives alternately, being possessed of one set of furniture only, which he removes with himself to each house. At the time of his death, the furniture is in the house at Chinsurah.

A bequeaths to B all his goods on board a certain ship then lying in the River Hooghly. The goods are removed by A's directions to a warehouse, in which they remain at the time of A's death.

No one of these legacies is revoked by ademption.

When the thing bequeathed is a valuable to be received by the testator from a third person; and the testator himself, or his representative, receives it.

CXLIX. Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which shall be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption; but if he mixes it up with the general mass of his property, the legacy is adeemed.

Illustration.

A bequeaths to B whatever sum may be received from his claim on C. A receives the whole of his claim on C, and sets it apart from the general mass of his property, the legacy is not adeemed.

Change by operation of law of subject of specific bequest between date of Will and testator's death.

CL. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change.

Illustrations.

A bequeaths to B "all the money which he has in the 5½ per cent. loan of the Government of India."

The securities for the 5½ per cent. loan are converted during A's lifetime into 5 per cent. stock.

A bequeaths to B the sum of 2,000*l.*, invested in Consols in the names of trustees for A.

The sum of 2,000*l.* is transferred by the trustees into A's own name.

A bequeaths to B the sum of 10,000 rupees in promissory notes of the Government of India which he has power, under his marriage settlement, to dispose of by Will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

CLI. Where a thing specifically bequeathed undergoes a change between the date of the Will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all his 3 per cent. Consols." The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed, lent to a third party on condition that it shall be replaced.

CLII. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed, sold but replaced and belonging to the testator at his death.

CLIII. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

PART XXII.

Of the Payment of Liabilities in respect of the Subject of a Bequest.

Non-liability of executor to exonerate specific legatees.

CLIV. Where property specifically bequeathed is subject at the death of the testator to any pledge, lien, or incumbrance, created by the testator himself or by any person under whom he claims; then, unless a contrary intention appears by the Will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance. A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this Section.

Illustrations.

(*a*) A bequeaths to B the diamond ring given him by C. At A's death the ring is held in pawn by D, to whom it has been pledged by A. It is the duty of A's executors, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(*b*) A bequeaths to B a zamíndárí, which at A's death is subject to a mortgage for 10,000 rupees and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Completion of testator's title to things bequeathed to be at cost of his estate.

CLV. Where any thing is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations.

(*a*) A having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths it to B, and dies before he has paid the purchase-money. The purchase-money must be made good out of A's assets.

(*b*) A having contracted for the purchase of a piece of land for a certain sum of money, one-half of which is to be paid down, and the other half

secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase-money. One-half of the purchase-money must be paid out of A's assets.

Exoneration of legatee's immoveable property for which land-revenue or rent is payable periodically.

CLVI. Where there is a bequest of any interest in immoveable property, in respect of which payment in the nature of land revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them up to the day of his death.

Illustration.

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent. A pays his rent at the usual time, and dies 25 days after. A's estate shall make good 25 rupees in respect of the rent.

Exoneration of specific legatee's stock in a Joint Stock Company.

CLVII. In the absence of any direction in the Will, where there is a specific bequest of stock in a Joint Stock Company, if any call or other payment is due from the testator at the time of his death in respect of such stock, such call or payment shall, as between the testator's estate and the legatee, be borne by such estate; but if any call or other payment shall, after the testator's death, become due in respect of such stock, the same shall, as between the testator's estate and the legatee, be borne by the legatee if he accept the bequest.

Illustrations.

(*a*) A bequeathed to B his shares in a certain railway. At A's death there was due from him the sum of 5*l.* in respect of each share, being the amount of a call which had been duly made, and the sum of 5*s.* in respect of each share, being the amount of interest which had accrued due in respect of the call. These payments must be borne by A's estate.

(*b*) A has agreed to take 50 shares in an intended Joint Stock Company, and has contracted to pay up 5*l.* in respect of each share, which sum must be paid before his title to the shares can be completed. A bequeaths these shares to B. The estate of A must make good the payments which were necessary to complete A's title.

(*c*) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(*d*) A bequeaths to B his shares in a Joint Stock Company. B accepts

the bequest. Afterwards the affairs of the Company are wound up, and each shareholder is called upon for contribution. The amount of the contribution must be borne by the legatee.

(*e*) A is the owner of ten shares in a Railway Company. At a meeting held during his lifetime a call is made of 3*l*. per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

PART XXIII.

Of Bequests of Things described in general Terms.

Bequest of thing described in general terms.

CLVIII. If there be a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Illustrations.

(*a*) A bequeaths to B *a* pair of carriage horses, or *a* diamond ring. The executor must provide the legatee with such articles, if the state of the assets will allow it.

(*b*) A bequeaths to B "*his* pair of carriage horses." A had no carriage horses at the time of his death. The legacy fails.

PART XXIV.

Of Bequests of the Interest or Produce of a Fund.

Bequest of the interest or produce of a fund.

CLIX. Where the interest or produce of a fund is bequeathed to any person, and the Will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal as well as the interest shall belong to the legatee.

Illustrations.

(*a*) A bequeaths to B the interest of his 5 per cent. promissory notes of the Government of India. There is no other clause in the Will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the Government of India.

(*b*) A bequeaths the interest of his 5½ per cent. promissory notes of the Government of India to B for his life, and after his death to C. B is entitled

to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*c*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

PART XXV.

Of Bequests of Annuities.

Annuity created by Will is payable for life only, unless a contrary intention appears by the Will.

CLX. Where an annuity is created by Will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the Will. And this rule shall not be varied by the circumstance that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

Illustrations.

(*a*) A bequeaths to B 500 rupees a year. B is entitled during his life to receive the annual sum of 500 rupees.

(*b*) A bequeaths to B the sum of 500 rupees monthly. B is entitled during his life to receive the sum of 500 rupees every month.

(*c*) A bequeaths an annuity of 500 rupees to B for life, and on B's death to C. B is entitled to an annuity of 500 rupees during his life. C, if he survives B, is entitled to an annuity of 500 rupees from B's death until his own death.

Period of vesting where Will directs that an annuity be provided out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity.

CLXI. Where the Will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of an annuity for any person, on the testator's death the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him, or to receive the money appropriated for that purpose by the Will.

Illustrations.

(*a*) A by his Will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B. B is entitled at his option to have an annuity of 1,000 rupees for his life purchased for him, or to receive such a sum as will be sufficient for the purchase of such an annuity.

(*b*) A bequeaths a fund to B for his life, and directs that after B's death it shall be laid out in the purchase of an annuity for C. B and C survive the testator. C dies in B's lifetime. On B's death the fund belongs to the representative of C.

Abatement of annuity.

CLXII. Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the Will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the Will.

Where there is a gift of an annuity, and a residuary gift, the whole of the annuity to be first satisfied.

CLXIII. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose.

PART XXVI.

Of Legacies to Creditors and Portioners.

Creditor *primâ facie* entitled to legacy as well as debt.

CLXIV. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the Will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy as well as to the amount of the debt.

Child *primâ facie* entitled to legacy as well as portion.

CLXV. Where a parent who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his Will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy as well as the portion.

Illustration.

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by subsequent provision for legatee.

CLXVI. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

Illustrations.

(*a*) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(*b*) A bequeaths 40,000 rupees to B, his orphan niece, whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

PART XXVII.

Of Election.

Circumstances in which election takes place.

CLXVII. Where a man, by his Will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and in the latter case he shall give up any benefits which may have been provided for him by the Will.

Devolution of interest relinquished by the owner.

CLXVIII. The interest so relinquished shall devolve as if it had not been disposed of by the Will in favor of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the Will.

Testator's belief as to his ownership immaterial.

CLXIX. This rule will apply whether the testator does or does not believe that which he professes to dispose of by his Will to be his own.

Illustrations.

(*a*) The farm of Sultánpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultánpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*b*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel, or to lose the estate.

(*c*) A bequeaths to B 1,000 rupees, and to C an estate which will under a settlement belong to B if his elder brother (who is married, and has children) shall leave no issue living at his death. B must elect to give up the estate, or to lose the legacy.

(*d*) A, a person of the age of 18 domiciled in British India, but owing real property in England, to which C is heir-at-law, bequeaths a legacy to C, and subject thereto devises and bequeaths to B "all his property, whatsoever and wheresoever," and dies under 21. The real property in England does not pass by the Will. C may claim his legacy without giving up the real property in England.

Bequest for a man's benefit how regarded for the purpose of election.

CLXX. A bequest for a man's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Illustration.

The farm of Sultánpur Khurd being the property of B, A bequeathed it to C; and bequeathed another farm called Sultánpur Buzurg to his own executors, with a direction that it should be sold, and the proceeds applied in payment of B's debts. B must elect whether he will abide by the Will, or keep his farm of Sultánpur Khurd in opposition to it.

A person deriving a benefit indirectly not put to his election.

CLXXI. A person taking no benefit directly under the Will, but deriving a benefit under it indirectly, is not put to his election.

Illustration.

The lands of Sultànpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultánpur to B, and 1,000 rupees to C. C dies intestate, shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the Will. In that capacity he receives the legacy of 1,000 rupees, and accounts to B for the rents of the lands of Sultánpur which accrued after the death of the testator and before the death of C. In his individual character he retains the lands of Sultànpur in opposition to the Will.

A person taking under a Will in his individual capacity, may in another character elect to take in opposition to it.

CLXXII. A person who in his individual capacity takes a benefit under the Will, may in another character elect to take in opposition to the Will.

Illustration.

The estate of Sultánpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultánpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. B dies intestate, shortly after the testator, without having made an election. C takes out administration to B, and as administrator elects to keep the estate of Sultànpur in opposition to the Will, and to relinquish the legacy of 2,000 rupees. C may do this, and yet claim his legacy of 1,000 rupees under the Will.

Exception to the six last Rules.—Where a particular gift is expressed in the Will to be in lieu of something belonging to the legatee, which is also in terms disposed of by the Will, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the Will.

Illustration.

Under A's marriage settlement his wife is entitled, if she survives him, to the enjoyment of the estate of Sultánpur during her life.

A by his Will bequeaths to his wife an annuity of 200*l.* during her life, in lieu of her interest in the estate of Sultánpur, which estate he bequeaths to his son. He also gives his wife a legacy of 1,000*l.* The widow elects to take what she is entitled to under the settlement. She is bound to relinquish the annuity, but not the legacy of 1,000*l.*

When acceptance of a benefit given by a Will constitutes an election to take under the Will.

CLXXIII. Acceptance of a benefit given by the Will constitutes an election by the legatee to take under the Will, if he has knowledge of his right to elect, and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

Illustrations.

(*a*) A is owner of an estate called Sultánpur Khurd and has a life interest in another estate called Sultánpur Buzurg to which, upon his death, his son B will be absolutely entitled. The Will of A gives the estate of Sultànpur Khurd to B, and the estate of Sultánpur Buzurg to C. B, in ignorance of his own right to the estate of Sultánpur Buzurg allows C to take possession of it, and enters into possession of the estate of Sultánpur Khurd. B has not confirmed the bequest of Sultánpur Buzurg to C.

(*b*) B, the eldest son of A, is the possessor of an estate called Sultánpur. A bequeaths Sultánpur to C, and to B the residue of A's property. B, having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultánpur. He afterwards discovers that the

residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultánpur to C.

Presumption arising from enjoyment by legatee for two years.

CLXXIV. Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the Will without doing any act to express dissent.

Confirmation of bequest by act of legatee.

CLXXV. Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine, and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

CLXXVI. If the legatee shall not, within one year after the death of the testator, signify to the testators' representatives his intention to confirm or to dissent from the Will, the representatives shall, upon the expiration of that period, require him to make his election; and if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the Will.

Effect of non-compliance with their request within a reasonable time.

Postponement of election in case of disability.

CLXXVII. In case of disability the election shall be postponed until the disability ceases, or until the election shall be made by some competent authority.

PART XXVIII.

Of Gifts in Contemplation of Death.

Property transferable by gift made in contemplation of death.

When a gift is said to be made in contemplation of death.

CLXXVIII. A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by Will. A gift is said to be made in contemplation of death where a man who is ill and expects to die shortly of his

illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness.

Such gift resumable.

Such a gift may be resumed by the giver.

When it fails.

It does not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Illustrations.

(*a*) A being ill, and in expectation of death, delivers to B, to be retained by him in case of A's death—

A watch.

A bond granted by C to A.

A Bank Note.

A promissory note of the Government of India endorsed in blank.

A Bill of Exchange endorsed in blank.

Certain mortage deeds.

A dies of the illness during which he delivered these articles.

B is entitled to—

The watch.

The debt secured by C's bond.

The Bank Note.

The promissory note of the Government of India.

The Bill of Exchange.

The money secured by the mortgage deeds.

(*b*) A being ill, and in expectation of death, delivers to B the key of a trunk, or the key of a warehouse in which goods of bulk belonging to A are deposited, with the intention of giving him the control over the contents of the trunk, or over the deposited goods, and desires him to keep them in case of A's death. A dies of the illness during which he delivered these articles. B is entitled to the trunk and its contents, or to A's goods of bulk in the warehouse.

(*c*) A being ill, and in expectation of death, puts aside certain articles in separate parcels, and marks upon the parcels respectively the names of B and C. The parcels are not delivered during the life of A. A dies of the illness during which he set aside the parcels. B and C are not entitled to the contents of the parcels.

PART XXIX.

Of Grant of Probate and Letters of Administration.

Character and property of executor or administrator as such.

CLXXIX. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

Administration with copy annexed of authenticated copy of Will proved abroad.

CLXXX. When a Will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the province, whether in the British dominions, or in a foreign country, and a properly authenticated copy of the Will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate to be granted to executor appointed by Will.

CLXXXI. Probate can be granted only to an executor appointed by the Will.

Appointment express or implied.

CLXXXII. The appointment may be express or by necessary implication.

Illustrations.

(*a*) A wills that C be his executor if B will not; B is appointed executor by implication.

(*b*) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c*) A appoints several persons executors of his Will and Codicils, and his nephew residuary legatee, and in another Codicil are these words:—"I appoint my nephew my residuary legatee to discharge all lawful demands against my Will and Codicils, signed of different dates." The nephew is appointed an executor by implication.

Persons to whom probate cannot be granted.

CLXXXIII. Probate cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

Grant of probate to several executors simultaneously or at different times.

CLXXXIV. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

Illustration.

A is an executor of B's Will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first and then to A.

Separate probate of Codicil discovered after grant of probate.

CLXXXV. If a Codicil be discovered after the grant of probate, a separate probate of that Codicil may be granted to the executor, if it in no way repeals the appointment of execu-

Procedure when different executors are appointed by the Codicil.

tors made by the Will. If different executors are appointed by the Codicil, the probate of the Will must be revoked, and a new probate granted of the Will and the Codicil together.

Accrual of representation to surviving executor.

CLXXXVI. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

No right as executor or legatee can be established, unless probate or letters of administration shall have been granted by a competent Court.

CLXXXVII. No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction within the Province shall have granted probate of the Will under which the right is claimed, or shall have granted letters of administration under the one-hundred and eightieth Section.

Probate establishes the Will from testator's death.

CLXXXVIII. Probate of a Will when granted establishes the Will from the death of the testator, and renders valid all intermediate acts of the executor as such.

Persons to whom letters of administration may not be granted.

CLXXXIX. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, nor to a married woman without the previous consent of her husband.

No right to intestate's property can be established, unless administration previously granted by a competent Court.

CXC. No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction.

From what period letters of administration entitle administrator to intestate's rights.

CXCI. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

CXCII. Letters of administration do not render valid any intermediate acts of the administrator, tending to the diminution or damage of the intestate's estate.

Acts of administrator not validated by letters of administration.

CXCIII. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship; except that when one or more of several executors have proved a Will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Grant of administration where executor has not renounced.

Exception.

CXCIV. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the Will appointing him executor.

Form and effect of renunciation of executorship.

CXCV. If the executor renounce, or fail to accept the executorship within the time limited for the acceptance or refusal thereof, the Will may be proved and letters of administration with a copy of the Will annexed may be granted to the person who would be entitled to administration in case of intestacy.

Procedure where executor renounces or fails to accept within the time limited.

CXCVI. When the deceased has made a Will, but has not appointed an executor, or when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the Will, or when the executor dies after having proved the Will but before he has administered all the estate of the deceased; an universal or a residuary legatee may be admitted to prove the Will, and letters of administration with the Will annexed may be granted

Grant of administration to universal or residuary legatee.

to him of the whole estate, or of so much thereof as may be unadministered.

Right to administration of representative of deceased residuary legatee.

CXCVII. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the Will annexed as such residuary legatee.

Grant of administration when there is no executor, nor residuary legatee, nor representative of such legatee.

CXCVIII. When there is no executor and no residuary legatee, or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the Will, and letters of administration may be granted to him or them accordingly.

Citation to be issued before grant of administration to any legatee other than universal or residuary.

CXCIX. Letters of administration with the Will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next of kin to accept or refuse letters of administration.

Order in which connections by marriage or consanguinity are entitled to administration.

CC. When the deceased has died intestate, those who are connected with him either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated.

Administration to be granted to widow unless Court see cause to exclude her.

CCI. If the deceased has left a widow, administration shall be granted to the widow unless the Court shall see cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations.

(*a*) The widow is a lunatic, or has committed adultery, or has been barred by her marriage settlement of all interest in her husband's estate; there is cause for excluding her from the administration.

(*b*) The widow has married again since the decease of her husband; this is not good cause for her exclusion.

Persons associated with widow in administration.

CCII. If the Judge think proper, he may associate any person or persons with the widow in the administration, who would be entitled solely to the administration if there were no widow.

Grant of administration where no widow, or widow excluded.

Proviso.

CCIII. If there be no widow, or if the Court see cause to exclude the widow, it shall commit the administration to the person or persons who would be beneficially entitled to the estate according to the rules for the distribution of an intestate's estate; provided that when the mother of the deceased shall be one of the class of persons so entitled, she shall be solely entitled to administration.

Deceased's kindred of equal degree, equally entitled to administration.

CCIV. Those who stand in equal degree of kindred to the deceased, are equally entitled to administration.

Right of widower to administration of wife's estate.

CCV. The husband, surviving his wife, has the same right of administration of her estate as the widow has in respect of the estate of her husband.

Grant of administration to a creditor.

CCVI. When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

Where deceased has left property in British India, administration must be granted according to the foregoing rules.

CCVII. Where the deceased has left property in British India, letters of administration must be granted according to the foregoing rules, although he may have been a domiciled inhabitant of a country in which the law relating to testate and intestate succession differs from the law of British India.

PART XXX.

Of Limited Grants.

(*a.*) *Grants limited in Duration.*

Probate of copy or draft of lost Will.

CCVIII. When the Will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the Will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of contents of lost or destroyed Will.

CCIX. When the Will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of copy where original exists.

CCX. When the Will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the Will or an authenticated copy of it be produced.

Administration until the Will be produced.

CCXI. Where no Will of the deceased is forthcoming, but there is reason to believe that there is a Will in existence, letters of administration may be granted, limited until the Will or an authenticated copy of it be produced.

(*b.*) *Grants for the Use and Benefit of others having Right.*

Administration, with the Will annexed, to Attorney of an absent executor.

CCXII. When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the Will annexed, may be granted to the Attorney of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

Administration, with the Will annexed, to Attorney of an absent person, who, if present, would be entitled to administer.

CCXIII. When any person to whom, if present, letters of administration, with the Will annexed, might be granted, is absent from the Province, letters of administration with the Will annexed may be granted to his Attorney, limited as above-mentioned.

Administration to Attorney of absent person entitled to administer in case of intestacy.

CCXIV. When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the Attorney of the absent person, limited as before mentioned.

Administration during minority.

CCXV. When a minor is sole executor or sole residuary legatee letters of administration, with the Will annexed, may be granted to the legal guardian of such minor or to such other person as the Court shall think fit until the minor shall have completed the age of eighteen years, at which period and not before, probate of the Will shall be granted to him.

Administration until one of several minor executors or residuary legatees attains majority.

CCXVI. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them shall have completed the age of eighteen years.

Administration for use and benefit of lunatic *jus habens*.

CCXVII. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, be a lunatic, letters of administration, with or without the Will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or if there be no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the lunatic until he shall become of sound mind.

Administration *pendente lite.*

CCXVIII. Pending any suit touching the validity of the Will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court, and shall act under its direction.

(*c.*) *For Special Purposes.*

Probate limited to purpose specified in the Will.

CCXIX. If an executor be appointed for any limited purpose specified in the Will, the probate shall be limited to that purpose, and if he should appoint an Attorney to take administration on his behalf, the letters of administration with the Will annexed shall accordingly be limited.

Administration with the Will annexed limited to a particular purpose.

CCXX. If an executor appointed generally give an authority to an Attorney to prove a Will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the Will annexed shall be limited accordingly.

Administration limited to property in which a person has a beneficial interest.

CCXXI. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the person beneficially interested in the property, or to some other person on his behalf.

Administration limited to a suit.

CCXXII. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in

the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to the purpose of becoming a party to a suit to be brought against administrator.

CCXXIII. If at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court that has granted the probate or letters of administration is situate, it shall be lawful for such Court to grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to collection and preservation of deceased's property.

CCXXIV. In any case in which it may appear necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate, may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Appointment as administrator, of person other than the one who under ordinary circumstances would be entitled to administration.

CCXXV. When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act, or where the executor shall, at the time of the death of such person, be resident out of the Province, and it shall appear to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who under ordinary circumstances would be entitled to a grant of administration, it shall be lawful for the Judge, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, to appoint such person as he shall think fit to be administrator, and in every such case letters of administration may be limited or not as the Judge shall think fit.

(d.) Grants with Exception.

Probate or administration with the Will annexed, subject to exception.

CCXXVI. Whenever the nature of the case requires that an exception be made, probate of a Will, or letters of administration with the Will annexed, shall be granted subject to such exception.

Administration with exception.

CCXXVII. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

(e.) Grants of the Rest.

Probate or administration of the rest.

CCXXVIII. Whenever a grant, with exception, of probate or letters of administration, with or without the Will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

(f.) Grants of Effects unadministered.

Grant of effects unadministered.

CCXXIX. If the executor to whom probate has been granted have died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

CCXXX. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when a limited grant has expired, and there is still some part of the estate unadministered.

CCXXXI. When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1884	III	Municipalities	350	By-laws for the following Municipalities (*contd.*) :—		
						Calcutta Gazette—
				Sherpur (Bogra) ...	689, 9 2 1897	1897, Pt. IB., p. 37.
					1238, 7 7 1917	1917, Pt. IB., p. 189.
					1526, 18 8 1917	Ditto, p. 216.
					928, 21 3 1922	1922, Pt. I, p. 596.
					2260, 17 8 1922	Ditto, p. 1623.
				Sherpur (Mymensingh)	16 7 1889	1889, Pt. IB., p. 147.
					818, 26 10 1918	1918, Pt. IB., p. 655.
					149, 11 1 1919	1919, Pt. IB., p. 9.
				Sonamukhi ...	1573. 1 6 1914	1914, Pt. IB., p. 246.
					709, 22 2 1922	1922, Pt. I, p. 411.
					1389, 4 5 1922	Ditto, p. 889.
					2139, 31 7 1922	Ditto, p. 1525.
					2693, 31 10 1922	Ditto, p. 1982.

PART XXXI.

Of the Practice in granting and revoking Probates and Letters of Administration.

Jurisdiction of District Judge in granting and revoking probates and letters of administration.

CCXXXV. The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his District.

District Judge's powers as to the granting of probate and administration.

CCXXXVI. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any Civil suit or proceeding depending in his Court.

District Judge may order any person to produce testamentary papers.

CCXXXVII. The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same, and such person shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit, and had made such default, and the costs of the proceeding shall be in the discretion of the Judge.

Proceedings of District Judge's Court in relation to probate and administration.

CCXXXVIII. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, except as hereinafter otherwise provided, be regulated so far as the circumstances of the case will admit by the Code of Civil Procedure.

CCXXXIX. Until probate be granted of the Will of a deceased person, or an administrator of his estate be constituted, the District Judge within whose jurisdiction any part of the property of the deceased person is situate, is authorized and required to interfere for the protection of such property, at the instance of any person claiming to be interested therein, and in all other cases where the Judge considers that the property incurs any risk of loss or damage; and for that purpose, if he shall see fit, to appoint an officer to take and keep possession of the property.

When and how District Judge is to interfere for the protection of property.

CCXL. Probate of the Will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it shall appear by a petition verified as hereinafter mentioned, of the person applying for the same, that the testator or intestate, as the case may be, at the time of his decease, had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

Probate or administration may be granted by District Judge, when testator or intestate at his death had a fixed dwelling or any property within the jurisdiction.

CCXLI. When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another District, or where the application is for letters of administration, to grant them absolutely or limited to the property within his own jurisdiction.

When application is made to the Judge of a District in which the deceased had no fixed abode.

CCXLII. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him,

Conclusiveness of probate or letters of administration.

and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted.

Conclusiveness of application for probate or administration, if properly made and verified.

CCXLIII. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purpose of authorizing the grant of probate or administration, and no such grant shall be impeached, by reason that the testator or intestate had no fixed place of abode, or no property within the District at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

CCXLIV. Application for probate shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the Will annexed, and stating the time of the testator's death, that the writing annexed is his last Will and testament, that it was duly executed, and that the petitioner is the executor therein named; and in addition to these particulars, when the application is to the District Judge, the petition shall further state that the deceased at the time of his death had his fixed place of abode, or had some property, moveable or immoveable, situate within the jurisdiction of the Judge.

In what cases translation of Will to be annexed to the petition.

CCXLV. In cases wherein the Will is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or if the Will be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner:—" I (A B) do declare that I read and perfectly understand the

Verification of translation made by any person other than the Court translator.

language and character of the original, and that the above is a true and accurate translation thereof."

Petition for letters of administration.

CCXLVI. Applications for letters of administration shall be made by petition distinctly written as aforesaid, and stating the time and place of the deceased's death, the family or other relatives of the deceased, and their respective residences, the right in which the petitioner claims, that the deceased left some property within the jurisdiction of the District Judge to whom the application is made, and the amount of assets which are likely to come to the petitioner's hands.

Petition for probate or letters of administration to be signed and verified.

CCXLVII. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect:—

"I (*A B*), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate, by one of the witnesses to the Will.

CCXLVIII. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the Will (when procurable), in the manner or to the effect following:—

"I (*C D*), one of the witnesses to the last Will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*as the case may be*), (*or* that the said testator acknowledged the writing annexed to the above petition to be his last Will and testament in my presence)."

Punishment for making false averment in petition or declaration.

CCXLIX. If any petition or declaration which is hereby required to be verified shall contain any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

CCL. In all cases it shall be lawful for the District Judge, if he shall think proper, to examine the petitioner in person, upon oath or solemn affirmation, and also to require further evidence of the due execution of the Will, or the right of the petitioner to the letters of administration, as the case may be, and to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration. The citation shall be fixed up in some conspicuous part of the Court-house, and also in the Office of the Collector of the District, and otherwise published or made known in such manner as the Judge issuing the same may direct.

District Judge may examine petitioner in person and require further evidence, and issue citations to inspect the proceedings.

Publication of citation.

CCLI. Caveats against the grant of probate or administration may be lodged with the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to any other Judge to whom it may appear to the District Judge expedient to transmit the same.

Caveat against grant of probate or administration.

CCLII. The caveat shall be to the following effect:—" Let nothing be done in the matter of the estate of A B, late of , deceased, who died on the day of at without notice to C D of ".

Form of caveat.

CCLIII. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge to whom the application has been made, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

After entry of caveat, no proceeding to be taken on the petition until after notice to the caveator.

CCLIV. When it shall appear to the Judge that probate of a Will should be granted, he will grant the same under the seal of his Court in manner following:—

Grant of probate to be under seal of the Court.

Form of such grant.

"I, Judge of the District of hereby make known that on the day of in the year the last Will of late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his Will, was granted to the executor in the said Will named, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of a year next ensuing, and also to render a true account thereof."

Grant of letters of administration to be under seal of Court.

CCLV. And wherever it shall appear to the District Judge that letters of administration to the estate of a person deceased, with or without a copy of the Will annexed, should be granted, he will grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, , Judge of the District of , hereby make known that on the day of letters of administration (with *or* without the Will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the father (*or as the case may be*) of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of one year next ensuing, and also to render a true account thereof.

Administration-bond

CCLVI. Every person to whom any grant of administration shall be committed shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge shall from time to time by any general or special order direct.

Assignment of administration-bond.

CCLVII. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Probate not to be granted until after seven days, and letters of administration until after fourteen days from the testator's or intestate's death.

CCLVIII. No probate of a Will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Filing of original Wills of which probate or letters of administration with Will annexed have been granted.

CCLIX. Every District Judge shall file and preserve all original Wills of which probate or letters of administration with the Will annexed may be granted by him among the records of his Court, until some public registry for Wills is established; and the Local Government shall make regulations for the preservation and inspection of the Wills so filed as aforesaid.

Grantee of probate or letters of administration shall alone have power to sue, &c., until the same shall have been revoked.

CCLX. After any grant of probate or letters of administration no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Procedure in contentious cases.

CCLXI. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a

regular suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Payment to executor or administrator before probate or letters of administration revoked.

Right of such executor or administrator to recoup himself for payments.

CCLXII. Where any probate is or letters of administration are revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself in respect of any payments made by him, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

Appeals from orders made by District Judge under powers conferred by this Act.

CCLXIII. Every order made by a District Judge by virtue of the powers hereby conferred upon him, shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent jurisdiction of High Court.

CCLXIV. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

PART XXXII.

Of Executors of their own Wrong.

Executor of his own wrong.

CCLXV. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions. First.—Intermeddling with the goods of the deceased for the purpose of preserving them, or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

Second.—Dealing in the ordinary course of business with goods of the deceased received from another, does not make an executor of his own wrong.

Illustrations.

(*a*) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy, or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*b*) A having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*c*) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

Liability of an executor of his own wrong.

CCLXVI. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands, after deducting payments made to the rightful executor or administrator, and payments made in a due course of administration.

PART XXXIII.

Of the Powers of an Executor or Administrator.

In respect of causes of action surviving the deceased, and rents due at the time of his death.

CCLXVII. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and to distrain for all rents due to him at the time of his death, as the deceased had when living.

Demands and rights of action in favour of or against deceased, survive to and against his executor or administrator.

CCLXVIII. All demands whatsoever and all rights to prosecute or defend any action or special proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or adminis-

trators; except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

Illustrations.

(*a*) A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having brought any action. The cause of action does not survive.

(*b*) A sues for divorce. A dies. The cause of action does not survive to his representative.

Power of executor or administrator to dispose of deceased's property.

CCLXIX. An executor or administrator has power to dispose of the property of the deceased, either wholly or in part, in such manner as he may think fit.

Illustrations.

(*a*) The deceased has made a specific bequest of part of his property. The executor, not having assented to the bequest, sells the subject of it. The sale is valid.

(*b*) The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased. The mortgage is valid.

Purchase by executor or administrator of deceased's property.

CCLXX. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Powers of several executors or administrators, exerciseable by one.

CCLXXI. When there are several executors or administrators the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the Will or taken out administration.

Illustrations.

(*a*) One of several executors has power to release a debt due to the deceased.

(*b*) One has power to surrender a lease.

(*c*) One has power to sell the property of the deceased, moveable or immoveable.

(*d*) One has power to assent to a legacy.

(*e*) One has power to endorse a promissory note payabe to the deceased.

(*f*) The Will appoints A, B, C, and D, to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

CCLXXII. Upon the death of one or more of several executors or administrators, all the powers of the office become vested in the survivors or survivor.

Powers of administrator of effects unadministered.

CCLXXIII. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

CCLXXIV. An administrator during minority has all the powers of an ordinary administrator.

Powers of married executrix or administratrix.

CCLXXV. When probate or letters of administration have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

PART XXXIV.

Of the Duties of an Executor or Administrator.

As to deceased's funeral.

CCLXXVI. It is the duty of an executor to perform the funeral of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

Inventory and account.

CCLXXVII. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same may have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall, in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that may have come to his hands, and the manner in which they have been applied or disposed of.

CCLXXVIII. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Duty of executor or administrator as to property of, and debts owing to, the deceased.

CCLXXIX. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid before all debts.

CCLXXX. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Expenses to be paid next after such expenses

CCLXXXI. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased.

Wages for certain services to be next paid and then the other debts.

CCLXXXII. Save as aforesaid, no creditor is to have a right of priority over another, by reason that his debt is secured by an instrument under seal, or on any other account. But the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

Save as aforesaid, all debts to be paid equally and rateably.

CCLXXXIII. If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of the country in which he was domiciled.

Application of moveable property to payment of debts, where the deceased's domicile was not in British India.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 10,000 rupees, immoveable property to the value of 5,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The debts on the instruments

under seal are to be paid in full out of the moveable estate, and the proceeds of the immoveable estate are to be applied as far as they will extend towards the discharge of the debts not under seal. Accordingly, one-half of the amount of the debts not under seal is to be paid out of the proceeds of the immoveable estate.

Creditor paid in part under Section 283 to bring such payment into account before sharing in proceeds of immoveable property.

CCLXXXIV. No creditor who has received payment of a part of his debt by virtue of the last preceding Section shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal, leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees, which are to be distributed rateably amongst all the creditors without distinction in proportion to the amount which may remain due to them.

Debts to be paid before legacies.

CCLXXXV. Debts of every description must be paid before any legacy.

Executor or administrator not bound to pay legacies without indemnity.

CCLXXXVI. If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Abatement of general legacies.

CCLXXXVII. If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and the executor has no right to pay one legatee in preference to another, nor to retain any money on

Executor not to pay one legatee in preference to another.

account of a legacy to himself or to any person for whom he is a trustee.

Non-abatement of specific legacy when assets sufficient to pay debts.

CCLXXXVIII. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

Right under demonstrative legacy, when the assets are sufficient to pay debts and necessary expenses.

CCLXXXIX. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

CCXC. If the assets are not sufficient to answer the debts and the specific legacies an abatement shall be made from the latter rateably in proportion to their respective amounts.

Illustration.

A has bequeathed to B a diamond ring, valued at 500 rupees, and to C, a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

Legacies treated as general for purpose of abatement.

CCXCI. For the purpose of abatement, a legacy for life, a sum appropriated by the Will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

PART XXXV.

Of the Executor's Assent to a Legacy.

Executors's assent necessary to complete legatee's title.

CCXCII. The assent of the executor is necessary to complete a legatee's title to his legacy.

Illustrations.

(*a*) A by his Will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*) A by his Will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

Effect of executor's assent to a specific legacy.

CCXCIII. The assent of the executor to a specific bequest shall be sufficient to devest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

Assent may be verbal, and either express or implied.

This assent may be verbal, and it may be either express or implied from the conduct of the executor.

Illustrations.

(*a*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*) The interest of a fund is directed by the Will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c*) A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d*) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e*) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

CCXCIV. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

Illustrations.

(*a*) A bequeaths to B his lands of Sultánpur, which, at the date of the Will, and at the death of A, were subject to a mortgage for 10,000 rupees.

The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*b*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

CCXCV. When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied. Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

Implied assent.

Illustration.

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

Assent of executor gives effect to legacy from testator's death.

CCXCVI. The assent of the executor to a legacy gives effect to it from the death of the testator.

Illustrations.

(*a*) A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b*) A bequeaths 1,000 rupees to B with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor not bound to pay or deliver legacies until after one year from testator's death.

CCXCVII. An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

Illustration.

A by his Will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

PART XXXVI.

Of the Payment and Apportionment of Annuities.

Commencement of annuity when no time fixed by Will.

CCXCVIII. Where an annuity is given by the Will, and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When payment of annuity to be paid quarterly or monthly first falls due.

CCXCIX. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death; and shall, if the executor think fit, be paid when due, but the executor shall not be bound to pay it till the end of the year.

Dates of successive payments when first payment of an annuity directed to be made within a given time, or on a day certain.

CCC. Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the Will authorizes the first payment to be made;

Apportionment where annuitant dies between times of payment.

and if the annuitant should die in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

PART XXXVII.

Of the Investment of Funds to provide for Legacies.

Investment of sum bequeathed where a legacy, not specific, is given for life.

CCCI. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of amount of general legacy, to be paid at a future time.

CCCII. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding Section. The intermediate interest shall form part of the residue of the testator's estate.

Intermediate interest.

CCCIII. Where an annuity is given and no fund is charged with its payment or appropriated by the Will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

Procedure when no fund is charged with or appropriated to an annuity.

CCCIV. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee on his giving sufficient security for the payment of the legacy if it shall become due.

Transfer to residuary legatee of amount of contingent bequest.

CCCV. Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in such securities as the High Court may for the time being regard as good securities, shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, without direction to invest in particular securities.

CCCVI. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Investment of residue bequeathed to a person for life, with direction to invest in specified securities.

Time and manner of the conversion and investment.

CCCVII. Such conversion and investment as are contemplated by the two last preceding Sections shall be made at such times and in such manner as the executor shall in his discretion think fit; and until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Interest payable until investment.

Procedure where minor is entitled to immediate payment or possession of bequest, and there is no direction to pay to any person on his behalf.

CCCVIII. Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the Will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom the probate was or letters of administration with the Will annexed were granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards the legacy shall be paid into that Court to his account, and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid; and such money when paid in shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

PART XXXVIII.

Of the Produce and Interest of Legacies.

Legatee of a specific legacy entitled to produce thereof from testator's death.

CCCIX. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

Exception.—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy. The clear produce of it forms part of the residue of the testator's estate.

Illustrations.

(*a*) A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*) The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee entitled to produce of residuary fund from testator's death.

CCCX. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(*a*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time is fixed for payment of a general legacy.

CCCXI. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

Exceptions.—(1.) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2.) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3.) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time has been fixed.

CCCXII.—Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the Will for maintenance.

Rate of interest.

CCCXIII. The rate of interest shall be four per cent. per annum.

No interest payable on arrears of annuity within first year after testator's death.

CCCXIV. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the Will for making the first payment of the annuity.

Interest payable on sum to be invested to produce annuity.

CCCXV. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

PART XXXIX.

Of the Refunding of Legacies.

Refund of legacy paid under Judge's orders.

CCCXVI. When an executor has paid a legacy under the order of a Judge, he is entitled to call upon the legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

No refund if legacy paid voluntarily.

CCCXVII. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund, in the event of the assets proving insufficient to pay all the legacies.

CCCXVIII. When the time prescribed by the Will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has been allowed under the one hundred and twenty-fourth Section, for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

Refund when legacy has become due on performance of a condition within further time allowed under Section 124.

CCCXIX. When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

When each legatee is compellable to refund in proportion.

CCCXX. Where an executor or administrator has given such notices as would have been given by the High Court in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution; but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Distribution of assets.

Creditor may follow assets.

CCCXXI. A creditor who has not received payment of his debt may, within two years after the death of the testator, or one year after the legacy has been paid, call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the

Within what period a creditor may call upon a legatee to refund.

time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor was voluntary or not.

When a legatee who has not received payment or who has been compelled to refund under Section 321, cannot oblige one who has received payment in full to refund.

CCCXXII. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding Section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When an unsatisfied legatee must first proceed against executor, if solvent.

CCCXXIII. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed against the executor if he is solvent; but if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to the refunding of one legatee to another.

CCCXXIV. The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

Illustration.

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

CCCXXV. The refunding shall in all cases be without interest.

Residue of the deceased's property after usual payments to be paid to residuary legatee.

CCCXXVI. The surplus or residue of the deceased's property after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the Will.

PART XL.

Of the Liability of an Executor or Administrator for devastation.

Liability of executor or administrator for devastation.

CCCXXVII. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage he is liable to make good the loss or damage so occasioned.

Illustrations.

(*a*) The executor pays out of the estate an unfounded claim. He is liable to make good the loss.

(*b*) The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss.

(*c*) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of the deceased's property.

CCCXXVIII. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Illustrations.

(*a*) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount.

(*b*) The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART XLI.

Miscellaneous.

Stamps and fees on instruments mentioned in this Act.

CCCXXIX. For every instrument or writing of any of the kinds specified in the Schedule to this Act, and which shall be made or executed after the commencement of this Act, there shall be payable to Government a Stamp duty or fee of the amount indicated in the said Schedule.

Saving of rights, duties, and privileges of Administrator General.

CCCXXX. Nothing contained in this Act shall be deemed or taken to supersede or affect the rights, duties, and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively, under or by virtue of Act VIII of 1855 (*to amend the law relating to the office and duties of Administrator General*), Act XXVI of 1860 (*to amend Act VIII of* 1855), The Regimental Debts Act, 1863, and the Administrator General's Act 1865; and it shall be the duty of the Magistrate or other Chief Officer charged with the executive administration of a district or place in criminal matters, whenever any person to whom the provisions of this Act shall apply shall die within the limits of his jurisdiction, to report the circumstances without delay to the Administrator General of the Province, retaining the property under his charge until letters of administration shall have been obtained by that Officer or by some other person, when the property is to be delivered over to the person obtaining such letters, or who may obtain probate of the Will (if any) of the deceased.

Succession to property of Hindús, Muhammadans or Buddhists and certain Wills, Intestacies and marriages not affected by this Act.

CCCXXXI. The provisions of this Act shall not apply to Intestate or Testamentary succession to the property of any Hindú, Muhammadan or Buddhist; nor shall they apply to any Will made, or any intestacy occurring before the first day of January 1866. The fourth Section shall not apply to any marriage contracted before the same day.

Power of Governor-General to exempt any race, sect, or tribe in British India from the operation of this Act.

CCCXXXII. The Governor-General of India in Council shall from time to time have power, by an order, either retrospectively from the passing of this Act, or prospectively, to exempt from the operation of the whole or any part of this Act the members of any race, sect or tribe in British India or any part of such race, sect or tribe, to whom

he may consider it impossible or inexpedient to apply the provisions of this Act, or of the part of the Act mentioned in the order. The Governor-General of India in Council shall also have power from time to time to revoke such order, but not so that the revocation shall have any retrospective effect. All orders and revocations made under this Section shall be published in the Gazette of India.

SCHEDULE.

STAMPS.

		Stamps.		
Petition for probate or letters of administration where the value of the estate exceeds Rupees five hundred ...	Rupees	10	0	0
Ditto where the value of the estate is less than Rupees five hundred ...	Rupee	1	0	0
Probate or letters of administration ...	Rupees	8	0	0
Caveat ...	Rupees	4	0	0
Citation ...	Rupee	1	0	0
All petitions other than those abovementioned ...	Rupee	1	0	0
Inventory ...	Rupee	1	0	0
Administration-bond ..	Rupees	8	0	0

FEE.

Translations by the Court Translator or by order of the Court, per folio of ninety words	Rupees	2	0	0

MOFUSSIL SMALL CAUSE COURTS.

ACT No. XI. OF 1865.

[*Received the assent of the G. G. on the* 15*th March* 1865.]

Recites expediency of consolidating the Laws relating to Small Cause Courts in the Mofussil.

1. Interprets words of Number, Gender, the words Judge, Section, Court of Small Causes, Local Governments.

2. Repeals Act XLII, 1860 and Act XII, 1861, saving in some respects Courts constituted under that Act.

3—10. Empowers Local Governments, with consent of the Governor-General in Council, to constitute Small Cause Courts under this Act, and (4) gives such Courts a Seal, and (5) as to where they shall be held, and (6) of what causes have cognizance up to 500 Rupees; and (7) empowers the Government to extend the jurisdiction to 1,000 Rupees; and (8) as to causes of jurisdiction; and (9) as to when the suit is against Government; and (10) when against the Secretary of State for India.

11. Directs when service of summons on servant, &c., shall be good service.

12. Makes jurisdiction of Small Cause Court exclusive, save as to specified jurisdiction of Magistrates, &c., Village Moonsiffs, &c., Military Courts of Request, &c., and of specified single officers in Madras and Bombay.

13—14. Small Cause Court Judge to be appointed by Local Government, with salary to be determined by the Governor-General in Council, and (14) Judge, if of 2 or more Courts, to go on Circuit.

15. Local Government may also invest any person with powers of Small Cause Court Judge, &c.; who (16) may have concurrent jurisdiction with Judge, and business to be distributed between them, how; and (17) remuneration of such person to be fixed by the Governor-General of India in Council.

18—20. In suits under this Act Summons to be for final disposal, and no written statement, &c.; and (19) immediate execution of decree may be given; and (20) after sale of immoveable property, execution may be obtained against immoveable, how.

21—28. Decrees, &c., under this Act final, but may be set aside in specified cases, and how, or new trial may be granted; and (22) Court may reserve questions of law, &c., for its own opinion in suits up to 500 Rupees, and for opinion of High Court in suits above 500 Rupees; and (23) may pass a decree contingent on the result of that reserved question, but not issue execution; and (24) an early day shall be fixed for reserved case being heard; and (25) parties or their Pleaders may be heard in High Court; which Court (26) shall send its judgment under seal to Court below; and (27) costs in High Court to be costs in the cause; and (28) High Court may alter, &c., decree of Court below, and make such order as justice may require.

29—34. Local Government may appoint one the Principal Court, if more than one in a District; and (30) assigns the powers of the Principal Judge; and (31) Rules may be made by Government for two Judges sitting together; and (32) if they differ on point of law, question to be referred to High Court; on (33) any other kind of question, the Senior Judge to have the casting voice; and (34) if Judge and Person only with acting power differ, the Judge to have casting voice.

35—39. Empowers Local Government to appoint Registrar for Small Cause Court with salary; who (36) shall be Chief Ministerial Officer of the

Court; and (37) in absence of Judge may receive plaints, with power to reject, and (38) take confession of judgment and enter same; and (39) receive applications for execution, and execute them, &c.

40—43. Local Government may give Registrar powers of a Judge up to 20 Rupees, and (41) in such suits he shall proceed as Judge would, in subordination to powers of Judge, in what respects; and (42) no appeal to lie, but he may reserve question, &c., for Judge; and (43) his decree may be set aside, &c., by Judge only on same grounds as Judge's might be.

44—45. Clerk of the Court with salary may be appointed; appointment and removal to lie with the Court; and Registrar may be Clerk; and Clerk shall, (45) subject to Registrar, issue all process, keep accounts, &c.

46. High Court shall have power to make Rules and Orders, &c., for Small Cause Courts.

47. Extends Stamp Act X, 1862, Section 26, to Small Cause Courts, and Code of Civil Procedure so far as applicable.

48. Saves Small Cause Courts in Military Cantonments from Act III, 1859, Section 3, and from Act XXII, 1864, Sections 6, 7, 8.

49. Saves Courts of Requests under 27 Vic. c. 3 from this Act and from Act XXII, 1864, Sections 6, 7, 8.

50. Applies to this Act references in previous Acts to Act XLII, 1860, and procedure of this Act to be substituted for that of Act XLII, 1860.

51. Whenever Small Cause Court's business insufficient to occupy Judge fully, Local Government may invest him with other specified powers under Code of Criminal Procedure, &c.

52. Empowers Local Government to appoint Small Cause Court Judge to hear cases under Act X, 1854, arising within local limits of Court.

53. Makes it duty of Small Cause Courts to comply with requisitions of Government for Records, Returns, &c.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature; It is enacted as follows:—

Interpretation clause.

I. In this Act, unless there be something repugnant in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

Gender.

Words importing the masculine gender include females.

"Judge."

"Judge" includes an Acting Judge.

"Section."

"Section" means a Section of this Act.

"Court of Small Causes."

"Court of Small Causes" means a Court constituted under this Act.

"Local Government."

"High Court."

And, in every part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the Executive Government in such part, and "High Court" denotes the highest Civil Court of Appeal having jurisdiction therein.

Repeal of Acts XLII of 1860, and XII of 1861.

II. Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), and Act XII of 1861 (*to amend Act XLII of* 1860) are hereby repealed: Provided that any Courts of Small Causes now in existence which shall have been constituted under Act No. XLII of 1860 shall be considered as constituted under this Act within the territorial limits of the jurisdiction assigned to such Courts under the said Act XLII of 1860, or which may hereafter be assigned to them under the next following Section, and shall be subject to all the provisions contained herein: and all suits and proceedings pending in any such Courts shall be heard and determined in the same manner as suits and proceedings are required to be heard and determined under this Act; but this Act shall not in any way invalidate or alter the effect of anything which shall have been done in any such suit or proceeding prior to the commencement of this Act.

Constitution of Small Cause Courts.

III. The Local Government may, with the previous sanction of the Governor-General of India in Council, constitute for the trial of suits under this Act, Courts of Small Causes with such establishment of Officers as may be necessary, at any places within the Territories under such Government. Whenever a Court of Small Causes shall be so constituted, the Local Government shall fix the territorial limits of the jurisdiction of such Court, and may from time to time alter the limits so fixed. The Local Government may abolish any Court of Small Causes.

Limits of their territorial jurisdiction to be fixed by Local Government.

Seal of the Court.

IV. Every Court of Small Causes shall use a seal bearing the following inscription in English and in the language of the Court—" Court of Small Causes of ",—and shall be subject to the general control and orders of the High Court.

Courts to be generally subject to the High Court.

Places where Courts to be held.

V. Courts of Small Causes shall be held at such place or places within the local limits of their respective jurisdictions, as shall from time to time be appointed by the Local Government.

Suits cognizable by Small Cause Courts.

VI. The following are the suits which shall be cognizable by Courts of Small Causes, namely, claims for money due on bond for other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees whether on balance of account or otherwise; Provided that no action shall lie in any such Court—

Proviso.

(1) On a balance of partnership account, unless the balance shall have been struck by the parties or their agents:

(2) For a share or part of a share under an intestacy, or for a legacy or part of a legacy under a Will:

(3) For the recovery of damages on account of an alleged personal injury, unless actual pecuniary damage shall have resulted from the injury:

(4) For any claim for the rent of land or other claim for which a suit may now be brought before a Revenue Officer, unless, as regards arrears of rent for which such suit may be brought, the Judge of the Court of Small Causes shall have been expressly invested by the Local Government with jurisdiction over claims to such arrears.

Power to extend jurisdiction of Small Cause Courts to Rupees one thousand.

VII. The Local Government may extend the jurisdiction of any Court of Small Causes, in suits of the nature described in the last preceding Section and thereby made cognizable by Courts of Small Causes, to an amount not exceeding one thousand Rupees.

Jurisdiction of the Courts.

VIII. Courts of Small Causes may try all such suits as are described in the sixth Section and thereby made cognizable by Courts of Small Causes, if the defendant at the time of the commencement of the suit shall dwell, or personally work for gain or carry on business, within the local limits of the jurisdiction of such Court; or if the cause of action arose within the said local limits, and the defendant, at the time of the commencement of the suit, shall by his servant or agent carry on business or work for gain within those limits.

Explanations.—(*a.*) Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(*b.*) A Corporation or Company shall be deemed to carry on business at its sole or principal office, or at any place where it has also a subordinate office in respect of any cause of action arising at such place.

(*c.*) The 'business' contemplated in this Section must be carried on at some fixed place for at least a certain time.

Suits against Government.

IX. Suits against the Local Government or against the Government of India shall be brought in the Court having jurisdiction at the place which is the seat of such Government.

Suits against the Secretary of State.

X. Suits against the Secretary of State shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose.

Substituted service of Summons.

XI. Service of a summons ssued under this Act, on any servant or agent by whom the defendant may carry on business or work for gain shall be deemed to be good service upon the defendant, provided that such agent or servant himself, at the time of such service, personally carries on the business or work for gain for the defendant, within the local limits of the jurisdiction of the Court in which the suit is brought.

XII. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court shall be heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Court of Small Causes: Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or Deputy Magistrate, can now exercise in regard to debts or other claims of a Civil nature, or the jurisdiction which can be exercised by Village Moonsiffs, or Village or District Panchâyats, under the provisions of the Madras Code; or by Military Courts of Requests, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859 (*for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds*); or by a single Officer duly authorized and appointed under the Rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bazars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively; or by Panchâyats in regard to suits against Military persons, according to the Rules in force in the Presidency of Madras.

Suits cognizable by a Court of Small Causes not to be heard by any other Court having jurisdiction within the local limits.

Saving of jurisdiction of Magistrates as to debts.

Of Village Moonsiffs and Village or District Panchayats in Madras.

Of Military Courts of Requests.

Of Officers appointed to try small suits in Madras and Bombay.

Or of Military Panchâyats in Madras.

XIII. Every Court of Small Causes shall (except as hereinafter provided) be held before a Judge appointed by the Local Government, and who shall receive such salary as the Governor-General of India in Council may from time to time determine. Such Judge shall be the Judge either of one such Court or of two or more such Courts as the Local Government shall appoint, but except as hereinafter provided, he shall not exercise any Civil jurisdiction except under the provisions of this Act.

Judge of Court.

Power to Judge of several Courts to fix times and dates of circuits and sittings.

XIV. It shall be lawful for any Judge who is the Judge of two or more Courts of Small Causes to fix, subject to the orders of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner, or other principal Civil Authority, the times at which he will go on circuit, and the dates on which his sittings in the several Courts of which he is Judge shall commence. Notice of such times and dates shall be published in the Official Gazette and at such places and in such manner as the Local Government or Chief Commissioner or other Authority as aforesaid shall think fit to direct in that behalf.

Local Government may invest any person, for a limited period, with powers of Judge of Court of Small Causes.

XV. The Local Government may from time to time invest any person with the powers of a Judge of a Court of Small Causes under this Act for a limited period, or for specific periods in each year only, and declare in what Court or Courts of Small Causes such powers shall be exercised by such person. Any person so invested shall, in all Courts in which the Local Government shall have declared that he shall exercise the said powers, have all such powers as might in such Courts be exercised by a Judge of the said Courts appointed under the thirteenth Section.

Powers to be exercised by persons so invested.

Jurisdiction to be exercised by persons so invested in Court in which there is a Judge.

XVI. If it shall be declared by the Local Government that any person invested under the last preceding Section with the powers of a Judge of a Court of Small Causes, shall exercise those powers in a Court of which there is a Judge appointed under the thirteenth Section, the person so invested shall exercise a jurisdiction concurrent with that of such Judge. The Local Government shall from time to time make Rules to provide for the distribution of business between any person so invested and any Judge in whose Court

it may be declared that such person shall exercise his powers, and generally for regulating and defining the duties and relative positions of Judges of Courts of Small Causes and persons so invested as aforesaid: Provided always that no such Rule shall be in any way inconsistent with the provisions of this Act.

Remuneration of Judges and of persons invested with powers of Small Cause Court Judge, and restriction from practising within the limits.

XVII. Every person invested with the powers of a Judge of a Court of Small Causes under the fifteenth Section shall receive such remuneration as the Governor-General in Council shall from time to time determine. It shall not be lawful for any such person to practise as a Barrister, Attorney, Vakeel, Pleader, or Law Agent in any District or place within the territorial limits of which he is empowered to exercise the powers with which he is invested.

Summons.

XVIII. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

In suits cognizable by Small Cause Courts, Court may on the judgment-creditor's application direct immediate execution against the judgment-debtor's person or moveable property.

XIX. When a decree is passed in any suit of the nature and amount cognizable under this Act, the Court passing the decree may, at the same time that it passes the decree, on the verbal application of the party in whose favour the decree is given, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court passing the decree, or against the moveable property of the judgment-debtor within the same limits. If the warrant be directed against the moveable property of the judgment-debtor, it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to the judgment-debtor within the same limits, and which shall be indicated by the judgment-creditor.

XX. In the execution of a decree under this Act, if, after the sale of the moveable property of a judgment-debtor, any portion of a judgment-debt shall remain due, and the holder of the judgment desire to issue execution upon any immoveable property belonging to the judgment-debtor, the Court, on the application of the holder of such judgment, shall grant him a copy of the judgment and a certificate of any sum remaining due under it; and on the presentation of such copy and certificate to any Court of Civil Judicature having general jurisdiction in the place in which the immoveable property of the judgment-debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Execution against immoveable property, if moveable property not sufficient.

XXI. In suits tried under this Act, all decisions and orders of the Court shall be final: Provided that in any case in which a decree shall be passed *ex-parte* against a defendant, he may within thirty days after any process for enforcing the decree has been executed give notice to the Court by which the decree was passed, of his intention to apply to the Court at its next sitting for an order to set it aside: and if, on the application being made to the Court at its next sitting, it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was heard, the Court shall pass an order setting aside the decree and shall appoint a day for proceeding with the suit, upon such terms as to costs or otherwise as shall to the Court seem proper: Provided also that it shall be competent to the Court, if it shall think fit, in any case not falling within the proviso last aforesaid, to grant a new trial, if notice of the intention to apply for the same at the next sitting of the Court be given to the Court within the period of seven days from the date of the decision, and if the same be applied for at the next sitting of the Court; but no such new trial shall be granted where the party applying for the same

Decision in suits tried under this Act to be final.

Ex-parte decree may be set aside.

New trial.

is the defendant or one of the defendants, unless he shall with his notice of application deposit in Court the amount for which a decree shall have been passed against him, including the costs (if any) of the opposite party.

On deposit of debt and costs.

XXII. If in the trial of any suit under this Act any question of law, or usage having the force of law, or any question as to the construction of a document which construction may affect the merits of the decision, shall arise, the Court, in suits for an amount not exceeding five hundred Rupees, may, either of its own motion or on the application of any of the parties to the suit, and in suits for an amount greater than five hundred Rupees shall draw up a statement of the case and refer it, with the Court's own opinion, for the decision of the High Court.

Power to refer questions of law, &c. to High Court.

XXIII. The Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of the order of the High Court.

Power to pass decree contingent upon the opinion of the High Court.

XXIV. The High Court shall fix an early day for the hearing of the case, and shall cause notice of such day to be placed in the Court-house.

High Court to fix day for the hearing.

XXV. The parties to the case may appear and be heard in the High Court in person or by Pleader.

Parties may appear and be heard in person or by Pleader.

XXVI. The High Court, when it has heard and considered the case, shall send a copy of its judgment, under the seal of the Court, to the Court by which the reference was made; and such Court shall, on the receipt of the copy, proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court to be transmitted.

XXVII. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

Power to High Court to alter or set aside order or decree made in the matter.

XXVIII. When a case is referred to the High Court under the twenty-second Section, the High Court may alter, cancel or set aside any order or decree which the Court stating the case may have made in the suit out of which the reference arose, and may make such order as the justice of the case may require.

Power to appoint one of the Courts of a District to be the Principal Court.

XXIX. Whenever more Courts than one are constituted in any District under this Act, the Local Government may appoint one of the same Courts to be the Principal Court of Small Causes in such District.

Judge of Principal Court may sit with Judge of any other Court in the District for the trial of reserved suits.

XXX. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes in the same District, or with a person invested with the powers of a Judge as aforesaid in such Court, for the trial and determination of any suit cognizable under this Act, and shall so sit for the trial and determination of any such suit which the Judge of such other Court or other person as aforesaid may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

Local Government may make Rules providing that two Judges shall sit together for trial of certain suits.

XXXI. The Local Government may from time to time make Rules providing that in such cases as shall be prescribed in such Rules, two Judges or a Judge and a person invested with the powers of a Judge as aforesaid, shall sit together and hear and dispose of suits and applications.

Procedure when two Judges differ on a point of law.

XXXII. If two Judges, or a Judge and a person invested with the powers of a Judge as aforesaid, sit together and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court: but if they shall differ on a point of law, or usage having the force of law, or in construing a document the construction of which may affect the merits of the decision, they shall submit a case for the opinion of the High Court on the point of difference between them, in the manner prescribed in the twenty-second Section of

this Act; and the provisions applicable to a reference to the High Court, contained in the twenty-second, twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth Sections of this Act, shall be applicable to every reference made under this Section.

Casting voice in case of difference between two Judges on a question of fact.

XXXIII. If two Judges differ on any matter other than the matters above-mentioned, the Judge who is senior in respect of date of appointment as a Judge of a Court of Small Causes shall have the casting voice.

Casting voice in case of difference on a question of fact between a Judge and a person invested with a Judge's powers.

XXXIV. If a Judge and a person invested with the powers of a Judge as aforesaid differ on any matter other than the matters above mentioned, the Judge shall have the casting voice.

Appointment of Registrar.

XXXV. It shall be lawful for the Local Government to appoint to any Court of Small Causes an Officer who shall be called the Registrar of the Court, and who shall be paid such salary as shall from time to time be authorized in that behalf by the Governor-General of India in Council.

Duties of Registrar.

XXXVI. The Registrar of every Court of Small Causes shall be the chief Ministerial Officer of the Court. In addition to any other duties and powers herein imposed or conferred upon the Registrar, he shall, subject to the provisions contained in the next following Section, receive all plaints presented to the Court; issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses. He shall likewise keep lists of all causes coming on for trial, and fix such days for their being heard respectively, as may seem to him fit. He may also receive notices under the twenty-first Section.

Procedure where Registrar thinks plaint defective in certain particulars.

XXXVII. If, when the Judge is absent on duty and there is no persen invested with the powers of a Judge as aforesaid, the Registrar shall be of opinion that any plaint presented to the Court is defective in any of the

particulars mentioned in Sections twenty-seven to thirty-two, both inclusive, of the Code of Civil Procedure, he may reject the same. But it shall be lawful for the Judge or for any person invested with the powers of a Judge as aforesaid, to reject any plaint which may have been received by the Registrar, and to receive any plaint which may have been rejected by him: Provided that such reception or rejection (as the case may be) by the Registrar shall, in the opinion of such Judge or other person empowered as aforesaid, have been erroneous, and that an application to set the same aside shall be made at the first subsequent sitting in the said Court of a Judge or other person duly empowered as aforesaid.

Proviso.

Registrar may receive and enter up judgments by confession.

XXXVIII. If a suit shall have been instituted in a Court of Small Causes, and the defendant shall have been duly summoned to appear and answer therein, and if before the day appointed for the hearing of such suit, the defendant or his agent duly authorized in that behalf shall appear before the Registrar of the Court, and admit the plaintiff's claim and apply for leave to confess judgment, it shall be lawful for the Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, to enter on the record a decree for the plaintiff by confession, and such decree shall have the like force and effect as a decree for the plaintiff would have had if the suit had been heard by the Judge and a decree passed by him for the plaintiff: Provided that in every case, before passing a decree under this Section, it shall be the duty of the Registrar fully to satisfy himself of the service of the summons, of the identity of the parties, and of their good faith in appearing before him.

Proviso.

Execution of decrees by Registrar.

XXXIX. The Registrar, if the Judge be absent on duty and there be no person invested with the powers of a Judge as aforesaid, shall also receive applications for the execution of decrees passed by the Judge, or other person empowered as aforesaid, of the Court of

which he is the Registrar, and, subject to any orders which he may receive from the Judge or such other person, shall execute such decrees in the same manner as the Judge might execute them. No appeal shall lie from any order passed by the Registrar under this Section; but the Judge or other person empowered as aforesaid may, within three calendar months from the making of the order, of his own motion reverse or modify it.

Power to invest Registrar with jurisdiction of Small Cause Court Judge in certain cases.

XL. The Local Government may invest any Registrar with the powers of a Judge of a Court of Small Causes in suits arising within the local limits of the jurisdiction of the Court of which he is the Registrar, provided that the amount or value of the claim shall not exceed twenty Rupees. The Registrar shall exercise such powers subject to the general control of the Judge, or, when there is no Judge, of any person invested with the powers of a Judge as aforesaid.

Hearing of suits cognizable by Registrar.

Transfer from Registrar's to Judge's file.

XLI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits and execute the decrees made therein, in such manner in all respects as the Judge of the Court might hear, determine and execute the same respectively: Provided that the Judge, or, when there is no Judge, the person invested with the powers of a Judge, whenever he thinks proper, may transfer to his own file any suit on the file of the Registrar, and may hear and determine the same.

No appeal from decision of Registrar under last Section: but in cases of doubt, he may submit statement for opinion of Judge.

XLII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him: but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or as to the construction of a document which construction may affect the merits of the decision, he shall be at liberty to state a case for the opinion of the Judge, or, when there is no Judge,

of the person invested with the powers of a Judge as aforesaid, in like manner as the Judge may, under the twenty-second Section of this Act, state a case for the opinion of the High Court; and all the provisions herein contained relative to the stating of a case by the Judge, shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

Provisions applicable to such reference.

XLIII. A decree passed by a Registrar under the thirty-eighth Section may be set aside by the Judge of the Court, or, when there is no Judge, by the person invested with the powers of a Judge as aforesaid, in such manner and on such grounds only as it might be set aside if it were a decree passed at the hearing of the cause by the Judge or other person empowered as aforesaid.

Setting aside decree by a Registrar under Section 38.

XLIV. An Officer to be styled the Clerk of the Court may be appointed to any Court of Small Causes on such salary as shall be authorized by the Governor-General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the Local Government, or, in Territories under the immediate administration of the Government of India, of the Chief Commissioner or other principal Civil Authority. The Registrar of any Court of Small Causes may also be the Clerk of the Court.

Appointment and removal of Clerk of the Court.

XLV. When a Clerk is appointed to any Court of Small Causes, such Clerk shall, subject to the orders of the Court and of the Registrar if there be a Registrar, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all monies payable or paid into or out of Court, and shall enter an account of all such monies in a book belonging to the Court to be kept by such Clerk for that purpose.

Duties of Clerk.

XLVI. The High Court shall have power to make and issue general Rules for regulating the practice and proceedings of Courts of Small Causes, and also to prescribe forms

High Court empowered to make rules of practice, &c.

for every proceeding in the said Courts for which it shall think that forms should be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to alter any such Rule or form: Provided that such Rules and forms be not inconsistent with the provisions of this Act or of any other law for the time being in force.

Provisions of Section 26 of Act X of 1862, and of Act VIII of 1859, made applicable to cases cognizable under this Act.

XLVII. The twenty-sixth Section of Act X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*), and, except as hereinbefore provided, the provisions of the Code of Civil Procedure shall, so far as the same are or may be applicable, extend to all suits and proceedings under this Act.

Saving of Act XI of 1841, Section 17.

XLVIII. Nothing in the second Section of the said Act No. III of 1859, or the sixth, seventh, and eighth Sections of Act No. XXII of 1864 (*to make provision for the Administration of Military Cantonments*), relating to the establishment of Courts of Small Causes in Military Cantonments, shall be held to affect so much of Act No. XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*) as declares that in places beyond the frontier of the Territories of the East India Company, actions of debt and other personal actions may be brought before the Military Courts therein mentioned, against persons so amenable as therein mentioned, for any amount of demand.

Saving of jurisdiction of Courts of Requests.

XLIX. Nothing in this Act, nor in the sixth, seventh and eighth Sections of the said Act XXII of 1864, shall be held to affect the jurisdiction of any Court of Requests convened under the hundred and third Section of the Statute 27 Vic., cap. 3, or the corresponding Section in any other Statute for the time being in force, for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a Commanding Officer under any such Statute to assemble such Courts.

Reference in previous Acts to Act XLII of 1860 to be read as applying to this Act.

L. When in any Act passed prior to the coming into operation of this Act reference is made to Act XLII of 1860, such reference shall be read as applying to this Act, and when any procedure is directed to be in accordance with the provisions of Act XLII of 1860, such procedure shall be deemed to be directed to be in accordance with the provisions of this Act.

Power to give a Small Cause Court Judge the powers of a Principal Sudder Ameen or a Magistrate.

LI. Whenever the state of business in any Court of Small Causes, the Judge of which shall be the Judge of such Court only, is not sufficient to occupy his time fully, the Local Government may invest him within such limits as it shall from time to time appoint, in addition to his powers as such Judge, with the powers of a Magistrate as defined in the Code of Criminal Procedure, or, in the Regulation Provinces, with the powers of a Principal Sudder Ameen, or, in the Non-Regulation Provinces, with the powers of an Officer exercising the like or nearly the like powers as those of a Principal Sudder Ameen.

Power to give Small Cause Court Judge jurisdiction to hear claims under Act X of 1859.

LII. In the places in which the provisions of Act X of 1859 (*to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal*) are in force, the Local Government may empower any Judge of a Court of Small Causes to hear and determine, under the rules contained in the said Act X of 1859 applicable to trials before a Collector, and subject to the same regular and special appeal, the claims cognizable under such Act arising within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X of 1859 except the power of hearing appeals.

Small Cause Courts to furnish records, &c., called for by Local Government or High Court.

LIII. Courts of Small Causes shall comply with such requisitions as may from time to time be made by the Local Government or the High Court for records, returns, and statements in such form and manner as such Government or Court may deem proper.

HIGH COURT. FORT WILLIAM—PRISONERS.

ACT No. XII. OF 1865.

[*Received the assent of the G. G. on the* 15*th March* 1865.]

Recites expediency of Prisoners in Calcutta being committed to the Custody of an Officer appointed by Government instead of to the Sheriff.

1. Interprets words High Court, Magistrate.

2. Repeals Act XXVIII, 1862, Sections 47, 48, 49, 50, 51, 52 and Act XXV, 1863.

3. Commitments to be no longer to Sheriff, nor warrants of arrest directed to him.

4—6. Authorizes Bengal Government to appoint a Superintendent of Presidency Jail, for reception and custody of Prisoners, to whom (5) shall be delivered Prisoners under sentence, &c., and (6) for intermediate custody, if to be transported.

7. Calcutta Magistrates to commit prisoners under sentence to same custody.

8. Superintendent to detain Prisoners according to the warrant.

9. Prisoners committed by Justice of the Peace for trial at Sessions to be delivered to Superintendent with warrant.

10—11. Prisoners under arrest by Civil Process to be delivered to Superintendent, with Copy of Warrant, who (11) shall detain such person according to exigency of warrant.

12. Transfers to custody of Superintendent persons confined in Jail at time of commencement of this Act.

13. Warrant of Commitment of State Prisoners under Bengal Regulation III, 1818, may be directed to Superintendent.

14. Extends this Act to persons in prison, or liable to be so, under Insolvent Debtor's Act, 11 V., c. 21.

15—16. Act to come into operation 1st April 1865, and (16) may be extended to Madras and Bombay.

Preamble.

WHEREAS it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal, persons should, for the purpose of being received and detained in prison, be committed to the custody of an Officer appointed by the Government of Bengal, instead of to the custody of the Sheriff of Calcutta; It is enacted as follows:—

I. In this act:—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal.

"Magistrate."

"Magistrate" includes a Magistrate of Police appointed under Act XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca*).

Enactments repealed.

II. The forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first and fifty-second Sections of Act XVIII of 1862 (*to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof, with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature*), and Act XXV of 1863 (*to empower Judges of the High Court and other authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction or the Great Jail of Calcutta, and to authorise the transfer of prisoners in certain cases from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction*) are hereby repealed.

After commencement of Act no one to be committed to Sheriff;

And writs not to be issued to Sheriff.

III. After the commencement of this Act, no person shall be committed to the Sheriff of Calcutta to be received and detained in prison; and no writ shall be awarded to the said Sheriff commanding him to arrest and seize the body of any offender.

Government of Bengal may appoint Superintendent of Presidency Jail.

IV. It shall be lawful for the Government of Bengal to appoint an Officer who shall be called the Superintendent of the Presidency Jail, and who shall have authority to receive and keep prisoners committed to his custody under the provision of this Act.

V. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the Superintendent of the Presidency Jail, together with the warrant of the said Court, and such warrant shall be executed by the said Superintendent and returned by him to the High Court when executed.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent of the Presidency Jail.

VI. Whenever any person shall be sentenced by the High Court in the exercise of its original Criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

VII. Whenever any person shall be sentenced by a Magistrate of Police for the Town of Calcutta to imprisonment, and whenever any person shall be imprisoned for default of payment of any fine imposed by any such Magistrate, the Magistrate shall cause such person to be delivered to the said Superintendent together with a warrant of the Court.

Persons sentenced by Magistrate to imprisonment or imprisoned for non-payment of fine to be delivered to Superintendent with a warrant.

VIII. The said Superintendent shall detain the person so delivered to him according to the exigency of such warrant, and shall return such warrant when executed to the Court whence it issued.

Superintendent to detain such persons according to exigency of warrant, and to return same when executed.

IX. Persons committed by a Justice of the Peace or Magistrate for trial by the High Court in the exercise of its original Criminal jurisdiction, shall be delivered to the said Superintendent together with a warrant of commitment, directing him to have the bodies of such persons before the Court for trial at the Sessions of the Court next ensuing after the date of such commitment.

Persons committed by Justice for trial by High Court to be delivered to Superintendent with warrant.

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

X. Every person arrested in pursuance of a warrant or order of the High Court in the exercise of its original Civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), shall be delivered by the proper Officer of the Court executing such warrant, together with a copy of such warrant, to the said Superintendent; and the Officer executing such warrant shall thenceforward be absolved from responsibility for the custody of the person so delivered.

Superintendent to detain such persons according to exigency of warrant.

XI. The said Superintendent shall detain the person delivered to him by the Officer of the Court in manner aforesaid, according to the exigency of the warrant, and return the same to the said Officer of the Court as soon as the terms of the said warrant shall have been complied with.

Persons confined in House of Correction or Great Jail of Calcutta shall be deemed to be in custody of Superintendent.

XII. From and after the commencement of this Act, all persons confined in the Great Jail of Calcutta, under process or sentence of Her Majesty's Supreme Court of Judicature at Fort William in Bengal, or of the High Court, or of any Police Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

Warrant under Regulation III, 1818, Bengal Code, may be directed to Superintendent.

XIII. Any warrant of commitment under Regulation III, 1818, of the Bengal Code (*for the confinement of State Prisoners*), may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act XXXIV of 1850 (*for the better custody of State Prisoners*) and Act III of 1858 (*to amend the Law relating to the arrest and detention of State Prisoners.*)

Provisions of Statute 11 Vict., cap. 21, as to prisoners, to extend to persons in custody of Superintendent.

XIV. The provisions contained in the Statute 11 Vict., cap. 21 (*to consolidate and amend the laws relating to Insolvent Debtors in India*), relating to persons in prison or liable to be arrested, or detained in or remanded or recommitted to, or entitled to be discharged from, prison within the limits of the town of Calcutta, shall apply to all persons in the custody of the said Superintendent, or liable to be delivered to or entitled to be discharged from his custody.

Commencement of Act.

XV. This Act shall come into operation on the first day of April 1865.

Act may be extended to Madras and Bombay.

XVI. The provisions of this Act may be extended to the local jurisdictions of Her Majesty's High Courts of Judicature at Madras and Bombay respectively by notification in the Gazette of India: such provisions when so extended shall, *mutatis mutandis*, relate to the custody of prisoners in such jurisdictions; and Regulation II of 1819 of the Madras Code (*for the confinement of State Prisoners*), and Regulation XXV of 1827 of the Bombay Code (*for the confinement of State Prisoners and for the attachment of the lands of Chieftains and others, for reasons of State*), shall respectively be read for the said Regulation III of 1818 of the Bengal Code, and so much of the Regulations or Acts for the time being in force in such jurisdictions respectively as is in any way inconsistent with or repugnant to any of the provisions of this Act shall thenceforward cease to have effect in such jurisdictions.

HIGH COURTS' CRIMINAL PROCEDURE AMENDMENT AND CIRCUIT COMMISSIONS.

ACT No. XIII. OF 1865.

[*Received the assent of the G. G. on the 21st March 1865.*]

Recites expediency of amending Criminal Procedure of High Court in original Jurisdiction, and of providing for exercise of Original Criminal Jurisdiction under Commission out of Presidency Towns.

Preliminary. 1—2.

1. Entitles Act, High Courts' Criminal Procedure Act, 1865.

2. Interprets words High Court, Chief Justice, Judge, Registrar, Magistrate, Clerk of the Crown, British India, and gives rule as to words of gender and number.

Of Charges when the Accused is committed in Presidency Town. 3—8.

3—6. Committing Magistrate to send to Clerk of the Crown a written instrument of charge signed by him; which (4) the Clerk of the Crown shall consider, &c., and may amend, and copy, if required, shall be given to accused, as also (5) copy of the Depositions, &c.; and (6) upon such charge the accused shall be tried.

7. Interprets the word Indictment in Act XVIII, 1862, to mean "charge."

8. Judge may order entry equivalent to a *nolle prosequi*, on charge, if clearly unsustainable, and as to effect of such entry.

Of Grand Juries. 9—10.

9—10. Abolishes the Grand Jury, saving (10) any Grand Jury already summoned.

Of Juries in Presidency Towns. 11—18.

11. Charge for offence punishable with death to be tried by Special Jury, and for any other offence, if ordered by Judge.

12. Continues the Jury Lists for the current year to end of year, and makes the current Grand Jury the Special Jury List for the year.

13. Directs that no new names be added to Special Jury List till it is reduced below 200 names.

14. Exempts Special Jurors from serving on Common Juries.

15—18. Directs the Clerk of the Crown, &c., before 1st April each year to prepare new Jury List, and before 15th April a Special Jury List; and (16) gives that Officer full discretion in the matter; (17) Annual Lists to be published in Gazette and at Court House; and (18) thirty-six Special Jurors and seventy-two Common Jurors to be summoned for each Session.

Of Challenges of Jurors in the Presidency Towns. 19—20.

19—20. Gives 20 peremptory challenges in Common and 10 in Special Juries, but no challenge to the array, and defines the grounds of challenge, 1, 2, 3; and (20) challenges, other than peremptory, to be tried, &c.

21. Saves, except as above, all the powers of the High Court as to Juries, and gives High Court power to make Rules.

Of Sittings under a Commission. 22—46.

22. Empowers the Governor-General in Council to issue Commissions to High Court Judges of Bengal for Circuit trials, authorizing the Judges to hold sittings in places to be named in such Commissions, and there to exercise same jurisdiction as in Presidency, subject to provisions in Section 28 and following Sections.

23—24. Authorizes Governor in Council of Madras, and Governor in Council of Bombay to issue like Commissions for those Presidencies.

25. Authorizes the High Court to allot to the Judge or Judges acting under such Commission such part of the extraordinary original Civil jurisdiction and Civil and Appellate jurisdiction, and jurisdiction of revision and reference of the High Court, as may be conveniently exercised on Circuit.

26. Directs that the Commission should specify the dates for the Judges on Circuit to remain in Circuit Town.

27. Authorizes the appointment of an Associate Judge to sit with the High Court Judge, but the latter to preside, conduct the case, and pronounce judgment.

28. Directs Justices in case of commitment of European British subjects to send the proceedings to the Clerk of the Crown, who shall obtain the orders of the Court as to place of trial, if Commission has issued, &c.

29. Provides as to the effect of the charge, and for entering a *nolle prosequi* if it be unsustainable.

30. Directs as to the Jail to which commitments of European British subjects shall be.

31. Empowers the High Court to direct the commitment, &c., of European British subjects to what place both for trial and intermediate custody; and notice thereof to be given to the Clerk of the Crown.

32—33. Gives the Circuit Judges the same jurisdiction in respect of persons committed for trial on Circuit as High Court as might be exercised in ordinary place of trial, but trial to be according to Code of Criminal Procedure, except as is excepted.

34. All trials before Circuit Judge to be by Jury.

35—37. On notice from Government, of intention to issue Commission under the Act, High Court shall issue notice to Zillah Sessions Judge, who shall take prescribed measures for summoning Jurors, and in addition, if necessary to make up the required number, Commissioned and Non-Commissioned Officers, with consent of Commanding Officer; (37) the majority of the Jury empannelled to try European British subject to be Europeans or Americans, and on every trial Jury to consist of 12, of whom a majority of

nine shall be necessary for verdict of guilty, and in default of such majority, prisoner to be acquitted.

38. Acts not of a judicial character requiring to be done during trial may be done by Clerk of the Crown.

39. Exempts from operation of Section 380 of the Code of Criminal Procedure sentences of death and convictions of offence punishable with death in Circuit trial; and (40) exempts from operation of Chap. 26 of same Code judgments in Circuit trial.

41. Empowers Circuit Judge to reserve any question of law or of the admissibility of evidence for decision of the High Court. And directs proceeding after sentence if no question is reserved. And if question is reserved, proceedings to be according to Code of Criminal Procedure.

42. Extends Code of Criminal Procedure to the constitution, &c., of Juries for Circuit trials, save as otherwise directed by this Act.

43. High Court Judge on Circuit may direct the Associate Judge to try any person not being European British subject, who would be triable by himself.

44. Empowers the Governor-General in Council to appoint by Commission under this Act any Barrister of not less than 5 years' standing to hold sittings on Circuit, which Barrister shall have same powers as he would have had if a High Court Judge.

45—46. Act to commence on date to be appointed by Notification in Gazette; but (46) not to extend to Straits Settlements.

Preamble.

WHEREAS it is expedient to amend the procedure of the High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, in the exercise of their original Criminal jurisdiction, and also to provide for the exercise by such Courts of original Criminal jurisdiction under the Commission of the Governor-General of India in Council, or of either of the Governors in Council of Madras and Bombay, in places other than the Presidency Towns, or at several such places by way of circuit; It is enacted as follows:—

Preliminary.

Short title.

I. This Act may be cited as "The High Courts' Criminal Procedure Amendment Act, 1865."

Interpretation clause.

II. In this Act, unless there be something repugnant in the subject or context—

"High Court." "High Court" denotes Her Majesty's High Courts of Judicature at Fort William in Bengal, at Madras, and at Bombay, respectively.

"Chief Justice." "Judge," &c. "Chief Justice," "Judge," "Registrar," and other words denoting any particular Officer, respectively include any person for the time being authorized to act as such Chief Justice, Judge, Registrar, or other Officer.

"Magistrate." "Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure, and includes Police Magistrates in any Presidency Town.

"Clerk of the Crown." "Clerk of the Crown" includes, besides such Officer, a Crown Prosecutor and any Officer specially appointed by the Governor-General of India in Council or the Governor in Council of Madras or Bombay to discharge the functions given by this Act to the Clerk of the Crown, in respect of any sittings of a Judge or Judges of the High Court in a place other than the usual place of sitting, or in respect of any sittings of a Barrister under the forty-fourth Section of this Act.

"British India." "British India" denotes the Territories which are or may become vested in Her Majesty or her successors under the Statute 21 and 22 Vic., Cap. 106, except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Gender and Number. Words importing the masculine gender include females, words in the singular number include the plural, and words in the plural number include the singular.

Of Charges where the Accused is committed in a Presidency Town.

Charge to be delivered to Clerk of the Crown with commitment within the local limits of the ordinary original Civil jurisdiction.

III. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any person for trial before the High Court for an offence committed, or which, according to law, may be dealt with as if it had been committed within the local limits of its ordi-

nary original Civil jurisdiction, shall, together with all examinations, informations, bailments, and recognizances now required to be delivered to such Court before the trial, deliver to the Clerk of the Crown a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Clerk of the Crown to consider and, if he will, to amend, alter, or add to the charge.

Charge with amendments, alterations, or additions (if any) to be recorded.

IV. The Clerk of the Crown shall peruse and consider the charge, and may, if he consider it necessary or expedient so to do, amend, alter, or add to the same. The charge, with such amendments, alterations, or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge, with such amendments, alterations, or additions (if any) gratis.

Accused to have copies of examinations.

V. The person charged shall also be entitled to copies of the examinations of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

VI. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the eighth Section of this Act) shall be arraigned at suit of the Crown, and the verdict shall be recorded thereupon.

Provisions of Act XVIII of 1862 as to indictments to apply to charges preferred under this Act.

VII. In Act XVIII of 1862 (*to repeal Act XVI of* 1852 *in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal justice in Her Majesty's Supreme Courts of Judicature*), the word "indictment" shall be understood to include the word "charge," and all the provisions of the said Act shall apply to charges recorded as aforesaid and the trial of such charges.

Nolle prosequi on unsustainable charge.

VIII. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the person charged is arraigned appear to the Judge of the High Court who would in ordinary course try the same, to be clearly unsustainable, an entry to that effect may be made on the charge by such Judge. Such entry may be made without the fiat of the Advocate-General, and shall have the effect of a *nolle prosequi* upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Of Grand Juries.

After commencement of this Act, Grand Jury not to be summoned.

IX. From and after the date on which this Act shall come into operation, no warrant or precept shall be issued to the Sheriff or other Officer directing him to summon any persons to attend and serve as Grand Jurors. All persons who, but for this Act, would have been exempt from serving on Common Juries shall be liable, except as hereinafter provided, to serve on such Juries.

No one to be charged on the presentment or inquisition of Grand Jurors, unless they have been summoned before the commencement of this Act.

X. No person shall be brought before the High Court on the presentment or inquisition of Grand Jurors, unless such presentment or inquisition shall have been made by Grand Jurors who shall have been duly summoned before this Act comes into force: Provided that if any precept for summoning a Grand Jury shall have been issued for the then next coming Sessions of the High Court, such Grand Jury shall proceed at such Sessions as if this Act had not passed.

Of Juries in Presidency Towns.

Certain trials to be held before Special Jurors.

XI. Every person tried in a Presidency Town upon a charge of having committed an offence which is punishable with death, or upon any other charge if a Judge of the High Court shall so order, shall be tried before a Special Jury.

The Jurors' Book for the current year, to be taken as giving the first list of Jurors and Special Jurors.

XII. The Jurors' Book for the year current when this Act comes into force, shall be taken as containing a correct general list of persons qualified and liable to serve as Jurors under this Act: and those persons whose names are entered in the said Jurors' Book as being privileged to serve on Grand or Special Juries only, shall be deemed to be persons privileged and liable to serve only as Special Jurors under this Act: and a list of such last-mentioned persons, to be called the "Special Jurors' List," shall forthwith, and subject to such rules as shall be prescribed by the High Court, be prepared by the Clerk of the Crown or such other Officer as the Chief Justice of the High Court shall direct.

The number of Special Jurors in the first list to be allowed to die down to two hundred.

XIII. The number of persons included in the "Special Jurors' List" prepared as in the last preceding Section is provided, shall be permitted gradually from year to year to diminish until the whole number of names remaining on such list shall not exceed two hundred: and no new name shall be added to such list until the number shall have been so diminished by the death or change of residence of the persons originally included in the list, or by other loss of such qualification as gave them the privilege of serving only as Grand or Special Jurors. After the number shall once have been reduced as aforesaid, the names of not more than two hundred persons shall ever at any one time be entered in the Special Jurors' List.

After which the number of Special Jurors not to exceed two hundred.

Special Jurors exempted from serving on Common Juries

XIV. All persons whose names are entered in the "Special Jurors' List" shall be exempted from serving on any other than Special Juries.

Preparation of lists of Jurors and Special Jurors.

XV. The Clerk of the Crown, or such other Officer as the Chief Justice of the High Court shall direct, shall, before the first day of April in each year, and subject in all respects to such rules as the High Court shall from time to time prescribe, prepare a list of all persons qualified and liable to serve as Jurors: and shall, before the fifteenth day of April which shall first occur after the reduction of the number of names in the "Special Jurors' List" as aforesaid, and before every subse-

quent fifteenth day of April, but subject always to such rules as aforesaid, take from the general list of Jurors the names of such persons as he may think fit, regard being had to their property, character, and education, and shall enter the same in the "Special Jurors' List."

Officer preparing the lists to have full discretion: no appeal from his decision.

XVI. The Clerk of the Crown or other Officer appointed by the Chief Justice shall, subject to such rules as aforesaid, have full and entire discretion to prepare the said lists as shall seem to him to be proper, and there shall be no appeal from or review of his decision.

Lists of Jurors to be published in the Gazette.

XVII. The list of persons qualified or liable to serve as Jurors, and the "Special Jurors' List," respectively, signed by the Officer by whom the same shall have been prepared, shall be published once in the Official Gazette, before the first day of May next after their preparation, and copies of the said lists shall be affixed to some conspicuous part of the Court House.

Jurors and Special Jurors to be summoned for each Sessions.

XVIII. Out of the names contained in the lists aforesaid, there shall be summoned for each Sessions thirty-six of those who are qualified and liable to serve on Special Juries, and seventy-two of those who are qualified and liable to serve on Common Juries.

Of Challenges of Jurors in the Presidency Towns.

Challenges.

XIX. A peremptory challenge to the number of twenty in Common Juries and ten in Special Juries, shall be allowed; but there shall be no challenge to the array, and, save as aforesaid, the following and no others shall be good causes of challenge, whether on behalf of the Crown or by the person charged:—

(1.) Some personal objection, such as alienage, infancy, old age, or deficiency in the qualification required by any law or rule having the force of law for the time being in force.

(2.) Some presumed or actual partiality in the Juror.

(3.) A previous conviction of the Juror under the Indian Penal Code, or the criminal law administered in the Supreme Courts of Judicature or the Courts of the East India Company previously to the enactment of such Code.

Judge to try challenge.

XX. The Judge before whom the person charged is about to be tried shall try any challenge, other than a peremptory challenge, and if he allow the challenge, the Juror shall be set aside.

High Court to retain its present jurisdiction as to Jurors in Presidency Towns except as altered by this Act.

XXI. Save as hereinbefore provided, the High Court shall retain all its present powers respecting the summoning, empannelling, qualification, challenging, and service of Jurors in the Presidency Towns: and shall have power to make such rules on these subjects (not inconsistent with the provisions of this Act) as shall seem to it to be proper. All rules relating thereto now in force in the High Court shall (so far as they are not inconsistent with this Act) remain in full force until repealed or altered by new rules made under this Section.

Of Sittings under a Commission.

Jurisdiction of Judge acting under Commission from Governor-General of India in Council.

XXII. From and after the commencement of this Act, whenever it shall appear to the Governor-General of India in Council convenient that the jurisdiction and power vested in the High Court at Fort William in Bengal should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the said High Court, whether within or without the Bengal Division of the Presidency of Fort William, other than the usual place of sitting of such Court, or at several such places by way of circuit, and the Governor-General of India in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein

directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court of Judicature at Fort William in Bengal in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of such High Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Madras.

XXIII. From and after the commencement of this Act whenever it shall appear to the Governor in Council of Madras convenient that the jurisdiction and power vested in the High Court of Judicature at Madras should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same High Court, whether within or without the Presidency of Madras, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Madras in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

Jurisdiction of Judge acting under Commission of Governor in Council of Bombay.

XXIV. From and after the commencement of this Act, whenever it shall appear to the Governor in Council of Bombay convenient that the jurisdiction and power vested in the High Court of Judicature at Bombay should be exercised in any place within the jurisdiction of any Court now subject to the superintendence of the same Court, whether within or

without the Presidency of Bombay, other than the usual place of sitting of such Court, or at several such places by way of circuit, and such Governor in Council shall, by his Commission for that purpose, authorize and direct any of the Judges of such Court to hold sittings in such place or places accordingly, at or within such times as by such Commission may be authorized or directed, the Judge or Judges acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as would be had and exercised by a Judge or Judges of the High Court at Bombay in its ordinary place of sitting, but subject, as respects the exercise of original Criminal jurisdiction in any place other than the ordinary place of sitting of the same Court, to the provisions contained in the twenty-eighth and following Sections of this Act.

High Court may allot jurisdiction to Judge acting under Commission.

XXV. The High Court may allot to a Judge or Judges acting under a Commission as aforesaid, such part of the extraordinary original Civil jurisdiction, and of the Civil and Criminal Appellate jurisdiction, and of the jurisdiction as a Court of revision or reference, which it is competent to exercise at its usual place of sitting, as the High Court may consider can be more conveniently exercised at any place or places mentioned in such Commission.

Commission to specify time and place during and in which it shall remain in force.

XXVI. Every Commission issued as aforesaid under any of the preceding Sections shall specify the time during which and the Districts or places within which such Commission shall remain in force; and such time and the limits of such Districts or places shall be notified in the Official Gazette.

Power to appoint an Associate Judge.

XXVII. The Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, may, by such Commission as aforesaid, associate with such Judge of the High Court any Barrister-at-law of not less than five years' standing, or any Sessions Judge. The person so associated shall be called the Associate Judge, and, unless directed to try persons separ-

ately as hereinafter provided, may sit with the Judge of the High Court during the trials of persons tried under such Commission. Whenever any Associate Judge sits with the Judge of the High Court, the latter shall preside, conduct the case, and pronounce judgment.

Charge to be delivered with record of preliminary enquiry without the local limits of the ordinary original Civil jurisdiction.

XXVIII. Any Justice of the Peace or Magistrate without the local limits of the ordinary original Civil jurisdiction of the High Court, before whom any European British subject shall be brought for an offence committed without those limits, shall, immediately after the conclusion of the preliminary enquiry, and if he shall determine to commit or hold to bail such person for trial, give notice thereof to the High Court to which the commitment or bailment would ordinarily be made, and shall send to the Clerk of the Crown, together with the record of the preliminary enquiry, and translations into English of any writings not in that language, a written instrument of charge signed by him stating for what offence such person is committed or held to bail. On receipt of these documents, the Clerk of the Crown shall proceed as directed in the like case in the fourth Section, and the person charged shall be entitled to copies in like manner as he would be entitled to copies under the fifth Section, of this Act. If a Commission under which the person charged might be tried shall have been issued, the High Court shall consider at what place the person charged can be most conveniently tried, and shall give directions accordingly: if no such Commission shall have been issued, the High Court shall obtain information from the Government as to whether such Commission is about to issue, and shall then give such directions as last aforesaid. Provided always that, if the commitment or bailment have been made after the issue and during the running of a Commission under which the person charged might be tried, the notice by this Section directed to be given to the Clerk of the Crown shall be given, and the documents directed to be sent to the Clerk of the Crown shall be sent, to the Clerk of the Crown with the Judge of the High Court

acting under the Commission. Such Judge shall have all the powers given to the High Court by this and the next succeeding Section.

The charge shall be deemed a charge under the Criminal Procedure Code.

XXIX. The charge, whether it shall or shall not have been amended, altered, or added to under the last preceding Section, shall, if the person charged, be directed to be tried at a place other than the usual place of sitting of the Court, have the same effect as a charge under the thirteenth Chapter of the Code of Criminal Procedure, and the person charged shall be tried thereon before a Judge of the High Court, whether sitting by himself or with an Associate Judge. But if, at any time before the High Court shall have directed where the trial of the person charged shall take place, the charge appear to the High Court to be clearly unsustainable, an entry to that effect may be made by the proper Officer of the Court at any time before the commencement of the trial. Such entry shall have the effect of staying proceedings on the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted. If the person charged be directed to be tried at the usual place of sitting of the Court, the charge, whether amended, altered, or added to as last aforesaid or not, shall have the same effect as, and be deemed to be, a charge under the sixth, seventh, and eighth Sections of this Act.

If unsustainable, the proceedings may be stayed.

Procedure pending directions of High Court.

XXX. Pending the directions of the High Court as to the place of trial, every such British subject as is referred to in the twenty-eighth Section of this Act shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to take place in the usual place of sitting of the Court, the Justice of the Peace or

Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which such person is directed to be tried; and the Officer in charge of such Criminal jail shall keep such person in safe custody until discharged in due course of law.

High Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

XXXI. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners. In any such case the High Court may direct, further, that the notice required by the twenty-eighth Section of this Act to be given, and the papers required by that Section to be sent, to the Clerk of the Crown, shall be given and sent to a particular Clerk of the Crown named by the High Court in that behalf. Every person bailed or committed to take his trial at any particular place in compliance with a general direction under the provisions of this Section, shall be dealt with in all respects as if he had been bailed or committed in compliance with a special direction under the twenty-eighth Section of this Act.

Jurisdiction over European British subjects tried under Commission.

XXXII. When the High Court shall have directed that any European British subject shall be tried at any place other than its usual place of sitting, the Judge of the High Court acting under such Commission as aforesaid in the place

and manner therein mentioned, shall, whether sitting by himself or with the Associate Judge, have and exercise in respect of such European British subject the same jurisdiction, power, and authority which would be had and exercised by the High Court at its ordinary place of sitting if the said European British subject had been committed or bailed to the said High Court at its ordinary place of sitting for the offence with which he is charged. But the trial of the said European British subject before such Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall, subject to the exceptions hereinafter declared, be conducted in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials of persons committed or bailed for trial before the Court of Session for offences triable by such Court.

Code of Criminal Procedure to apply to the trial of such subjects except as hereinafter declared.

XXXIII. The Judge of the High Court acting under such Commission in the place and manner therein mentioned, and whether sitting by himself or with the Associate Judge, shall, if he shall think fit, have and exercise the same jurisdiction, power, and authority in respect of any person committed or bailed for trial under the Code of Criminal Procedure before the Court of Session at the place and within the time in such Commission mentioned, as might be had and exercised by the Court of Session to which such person was committed or bailed. The trial of such person shall be conducted, subject to the exceptions hereinafter declared, in accordance with the rules and provisions contained in the Code of Criminal Procedure, and thereby made applicable to trials before a Court of Session of persons committed or bailed to such Court for offences triable by the same.

Jurisdiction over persons not European British subjects tried under Commission.

XXXIV. All trials before a Judge of the High Court acting under such Commission as aforesaid, and whether sitting by himself or with the Associate Judge, shall be by Jury.

Trials under Commission to be by Jury.

XXXV. Whenever the Governor-General of India in Council or the Governor of Madras or of Bombay in Council, as the case may be, shall have signified to the High Court that it is intended to issue a Commission as aforesaid to any Judge or Judges of the High Court authorizing and directing sittings of the said Judge or Judges in any place, the High Court shall give notice of such intention to the Court of Session at such place, and thereupon the said Court of Session shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up the Juries required for the trial of persons charged with offences before the Judge of the High Court acting under Commission as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of persons triable by such Judge of the High Court acting under such Commission as aforesaid, shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Summoning of Jurors to serve on trials under Commission.

Military men not exempt.

XXXVI. If the person charged shall be a European British subject and shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans. If such a Jury cannot be procured, the person so charged shall be sent for trial by the High Court in its usual place of sitting.

Jury for trial of European British subject.

XXXVII. On every trial mentioned in the thirty-fourth Section of this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Number of Jury requisite to verdict of guilty.

XXXVIII. During the trial of any person before a Judge of the High Court acting under Commission as aforesaid, or before a Judge of the High Court and an Associate Judge sitting together, any act, not of a judicial nature, which the Code of Criminal Procedure requires to be done by the Court of Session, may be done by the Clerk of the Crown or by any Officer of the Court directed by such Judge to perform such act.

Acts not of a judicial nature may be done by Clerk of the Crown.

XXXIX. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by a Judge of the High Court acting under Commission as aforesaid.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court Judge.

XL. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court Judge.

in any particular form, shall not apply to judgments, sentences, or findings in trials before a Judge of the High Court acting under such Commission as aforesaid, whether sitting by himself or with an Associate Judge; but the Judge shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as he shall think proper.

Power to reserve for High Court any question of law or evidence.

XLI. When any person has been convicted of an offence before a Judge of the High Court acting under Commission as aforesaid, the Judge, if he think proper, may reserve for the decision of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the District at which the trial was held, and such Magistrate or other Officer shall proceed thereupon in like manner as he is directed by the Code of Criminal Procedure to proceed in respect of sentences by a Court of Session not requiring confirmation. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision of the High Court thereon, be dealt with in like manner as persons sentenced by a Court of Session in cases where the sentence requires the confirmation of the Sudder Court under the Code of Criminal Procedure. If the decision of the High Court be adverse to the person convicted, such decision shall be forwarded to the Court of Session of the District in which the trial took place, in like manner as is directed by the three hundred and eighty-third Section of the said Code with reference to orders of confirmation of sentences, and thereupon the said Court of Session and all other persons shall proceed as if the person convicted had been sentenced by such Court of Session and as if such sentence had been confirmed by the Sudder Court under the Code of Criminal Procedure.

Procedure where no such question reserved.

XLII. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before a Judge of the High Court acting under Commission as aforesaid, or before such Judge and an Associate Judge, and to trials before such Judge of the High Court or before such Judge and an Associate Judge, and to sentences by such Judge of the High Court and to the carrying into execution of such sentences.

Save as aforesaid, Criminal Procedure Code to apply to Juries under Commission.

XLIII. If the Judge of the High Court think fit, he may direct the Associate Judge to try any person, other than a European British subject, who under this Act is triable by such Judge of the High Court. The trial of such person shall be regulated without exception by the rules of the Code of Criminal Procedure applicable to trials of persons committed or bailed for trial before a Court of Session, and such person, if convicted, shall be dealt with as if he had been convicted, before the Court of Session of the District in which the trial was held. Any person, other than a European British subject, who has been committed or bailed for trial before the Court of Session of any place mentioned in such Commission as aforesaid, but who has not been tried under this Act during the time for which the Commission remains in force, shall be tried by the Court of Session to which he was committed or bailed as if this Act had not passed.

High Court Judge may direct Associate Judge to try any one triable under Commission, not an European British subject.

XLIV. From and after the commencement of this Act, it shall be lawful for the Governor-General of India in Council by his Commission to authorize and direct any Barrister-at-law of not less than five years' standing, although not a Judge of any High Court, to hold sittings at any place in British India, other than the usual place of sitting of such Court, and other than any place referred to in the twenty-second, twenty-third, and twenty-fourth Sections

Power to Governor-General of India in Council to appoint a Barrister to hold sittings under Commission at places not hereinbefore referred to.

of this Act, or at several such places by way of circuit. The Barrister acting under such Commission, in the places and manner therein directed, shall have and exercise the same jurisdiction, power, and authority as (subject to the provisions hereinbefore contained) would be had and exercised by a Judge of the High Court acting under any such Commission as aforesaid.

Commencement of Act.

XLV. This Act shall commence and come into operation on such date as the Governor-General of India in Council shall appoint by notification in the Gazette of India.

Act not to extend to Straits' Settlement.

XLVI. This Act shall not extend to the Settlement of Prince of Wales' Island, Singapore, and Malacca.

CENTRAL PROVINCES, JURISDICTION OF COURTS.

ACT NO. XIV. OF 1865.

[*Received the assent of the G. G. on the 7th April* 1865.]

1. Names the Act.—The Central Provinces Court's Act, 1865.

2. The term Assistant Commissioners to include Extra Assistant Commissioners.

3. Defines what shall be a District and what a Division.

4—5. Directs the appointment of eight grades of Courts and names them; and (5) authorises the Chief Commissioner to assign to what grade any Tehsildar shall belong.

6—14. Empowers the Chief Commissioner to invest the Naib Tehsildar with defined Civil Jurisdiction; and (7) defines the jurisdiction of the second class Tehsildar; and (8) of the first class Tehsildar; and (9) of the third class Assistant Commissioner; and (10) of the second class Assistant Commissioner; and (11) of the first class Assistant Commissioner; and (12) of the Deputy Commissioner; and (13) of the Commissioner; and (14) of the Judicial Commissioner.

15. Gives thirty days for appeal if to Deputy Commissioner; six weeks if to Commissioner of Division; and ninety days if to Judicial Commissioner; days in such case to be reckoned how. And same time given for applications for Special Appeal.

16. Empowers Government to invest temporarily any person with powers of Commissioner or Deputy Commissioner.

17. Directs that every suit be instituted in Court of lowest grade competent, but saves exclusive jurisdiction of Small Cause Court.

18. Gives an appeal from all decisions of all the Courts.

19. Empowers Deputy Commissioner to distribute the business of Courts subordinate to him sitting at same place.

20—21. Empowers Commissioner of Division and Deputy Commissioner to withdraw suits from Subordinate Courts and to try them himself; and (21) gives Judicial Commissioner power to transfer suit or appeal from one Court to another.

22—23. Regulates the jurisdiction as respects suits for immoveable property situate in different Districts; and (23) makes same provision where such property is situate in several Districts under different Commissioners.

24—25. Act to commence on 1st May 1865; and (25) may be extended by Governor General in Council, by proclamation, to Oudh; and after extension Civil Judge of Lucknow to be deemed Deputy Commissioner and Assistant Judge of Lucknow a third class Assistant. Appeals to lie to Judicial Commissioner.

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces; It is enacted as follows:—

Short title.

I. This Act shall be called "The Central Provinces Courts' Act, 1865."

Interpretation clause.

"Assistant Commissioner."

II. In this Act—

"Assistant Commissioner" includes Extra Assistant Commissioner.

"District."
"District Court."
"Division."
"Divisional Court."

III. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Central Provinces.

IV. There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely:—

(1). The Court of the Tahsildar of the second class.

(2). The Court of the Tahsildar of the first class.

(3). The Court of the Assistant Commissioner of the third class.

(4). The Court of the Assistant Commissioner of the second class.

(5). The Court of the Assistant Commissioner of the first class.

(6). The Court of the Deputy Commissioner.

(7). The Court of the Commissioner.

(8). The Court of the Judicial Commissioner.

Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs.

V. Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner shall belong.

Chief Commissioner may give Naib Tahsildars jurisdiction up to fifty rupees.

VI. The Chief Commissioner may, with the sanction of the Local Government, invest any Naib Tahsildar with power to try and determine suits, for money due, whether on bond or other contract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of fifty rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

Jurisdiction of Court of Tahsildar of the second class.

VII. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding one hundred rupees in value or amount.

Jurisdiction of Court of Tahsildar of the first class.

VIII. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding three hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the third class.

IX. The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

X. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

XI. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

XII. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades, and of Naib Tahsildars invested as aforesaid.

Jurisdiction of Court of Commissioner.

XIII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

Jurisdiction of Court of Judicial Commissioner.

XIV. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Time for presenting appeals.

XV. The memorandum of appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show

sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within the said period; that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division; and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for appeals.

Local Government may invest any one with powers of Commissioner, or of Deputy Commissioner.

XVI. Whenever the state of the public business requires it, the Local Government shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Central Provinces.

Court in which suit shall be instituted.

XVII. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions except when expressly prohibited.

XVIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Deputy Commissioner may distribute business among subordinate Courts.

XIX. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.

XX. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Judicial Commissioner may transfer suits from one subordinate Court to another.

XXI. The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

Suits for immovable property situate in different Districts.

XXII. If the suit be for any immovable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and the Commissioner, after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immovable property situate in Districts subject to different Commissioners.

XXIII. If the District Courts within the limits of whose jurisdiction the immovable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the District

Court in which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

Commencement of Act.

XXIV. This Act shall commence and come into operation on the first day of May 1865.

Act may be extended to Oude.

XXV. The Governor-General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act XVI of 1865 (*to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits*). On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner.

PARSEE MARRIAGE AND DIVORCE ACT.

ACT No. XV. OF 1865.

[*Received the assent of the G. G. on the 7th April* 1865.]

Recites expediency of amending the Law relating to Marriage and Divorce of Parsees.

I.—*Preliminary.*

1. Names Act, the Parsee Marriage and Divorce Act, 1865.

2. Interprets words of number and grades and the words Priest, Marriage, Husband and Wife, Section, Chief Justice, Court, British India, Local Government, and High Court.

II.—*Of Marriages between Parsees.*

3. Declares invalid all Marriages contracted after commencement of this Act, if contracting parties are related within specified degrees of consan-

guinity or affinity, and in the case of Parsees under age of 21 if consent of father or guardian be not given.

4—5. Prohibits second marriage in life time of husband or wife, except after lawful divorce according to Act; and (5) subjects such second marriage to punishment of Bigamy under Penal Code.

6—14. Requires the Marrying Priest to certify the marriage in prescribed form; (7) to the Registrar to be appointed under this Act, for fee prescribed; the register (8) to be open at all times to inspection and extracts of it to be given; and (9 and 10) prescribe penalty on Priest for violation of Sections 4 and 6; and (11) on other persons than Priests under Section 6; and (12) extends Section 466 of Indian Penal Code to making, signing, or attesting Certificate with false statement, &c.; and (13) enacts simple imprisonment for Registrar failing to enter Certificate, &c.; and (14) imprisonment of either kind for persons secreting, destroying, or fraudulently altering the Register.

III.—*Of Parsee Matrimonial Courts.*

15—20. Directs the establishment of Special Courts in the Presidency Towns; (16) to be entitled Parsee Chief Matrimonial Court, local limits of which to be same as of High Court, Chief Justice of which is to be Judge of such Court, to be aided by 11 Delegates; and (17) provides for Parsee District Matrimonial Courts, with what limits; and (18) empowers Local Government to alter the limits of such District Courts; and (19) Districts with too few Parsees for District Court may be included in jurisdiction of Chief Matrimonial Court; and (20) every such Court shall have a seal to be kept where.

21—24 Directs Local Governments to appoint the Delegates, whose names shall be gazetted, and not to exeeed 30 in Presidency Town, nor 20 in District; such Delegates (22) to be appointed for life, and number to be kept up by new appointment on vacancy occurring by death, &c.; and (23) to be deemed Public servants within the meaning of Indian Penal Code; and (24) to be appointed for duty by rotation.

25. Entitles Advocates, Vakeels, and Attornies of High Court and Local Courts to practise in these Matrimonial Courts.

26. Directs that suits be brought in Court within whose jurisdiction the defendant is residing, or, if he has left India, in place in which defendant and plaintiff last resided together.

IV.—*Of Matrimonial Courts.*

(a) *For a Decree of Nullity.*

27—28. Marriage may, at instance of either party, be declared null and void for lunacy, become habitual, and continuing from time of marriage,

unless known at time of marriage; and (28) for non-consummation from natural causes making consummation impossible.

(*b*) *For a Decree of Dissolution in case of Absence.*

29. And marriage may be dissolved at instance of either party for continual absence of the other for seven years if not heard of as being alive by persons naturally likely to have heard.

(*c*) *For Divorce or Judicial Separation.*

30. Entitles the husband to sue for a divorce and dissolution of marriage on ground of adultery; and wife to sue the husband on ground of adultery and fornication under specified circumstances; the third offending party to be co-defendant, &c.

31. Entitles the wife to judicial separation for cruelty, &c.

32. Sets forth the facts to be negatived in suit for divorce or separation to entitle plaintiff to a decree.

33—35. Entitles the wife to apply to the Court for costs of suit and maintenance pending the suit; and (34) on decree for divorce or separation Court may order an allowance to the wife as alimony; and (35) to be paid either to the wife or trustees for her.

(*d*) *For Restitution of Conjugal Rights.*

36—37. Entitles husband and wife to sue for restitution of conjugal rights, if either have deserted the other without lawful cause, &c.; (37) unless party suing, if the husband be under 16, or the wife under 14 years of age.

38.—42. Directs that all suits under this Act shall be tried with closed doors, if either party so wish; and (39) imposes stamp on the proceedings; and (40) applies the Civil Code Procedure to proceedings under this Act; and (41) directs that questions of law and precedent shall be decided by the Judge, and of facts by a majority of the Delegates; and (42) gives an appeal to the High Court on specified grounds.

43. Authorizes marrying again after decree for dissolution and time for appealing is expired.

V.—*Of the Children of the Parties.*

44—45. Empowers the Court pending suit between parents, and in decree, to make all just orders for the custody, maintenance, and education of the children, &c.; and (45) in decree for divorce, &c. for adultery of the wife to make a settlement out of wife's property, if any, for benefit of the children.

VI.—*Of the Mode of enforcing Penalties under this Act.*

46—50. Gives Magistrate and Sessions Judges jurisdiction over offences under this Act according to the general limits of their jurisdiction in regard to punishments; and (47) establishes summary conviction before Magistrates of Police within Presidency Towns for offences punishable with fine, or fine and not more than six months' imprisonment; and (48) gives remedy by distress warrant for fines; and(49) authorizes arrest of offender till return of distress warrant unless security is given; and (50) authorizes arrest and imprisonment, &c. for fine if it cannot be levied.

VII.—*Miscellaneous.*

51—52. Empowers High Court to make Rules of Procedure for Matrimonial Court; and (52) empowers Governor General in Council to invest Executive Officers, &c., with powers of Local Government; (53) Act to come into operation on 1st September 1865.

Schedule of Forms.

Preamble.

WHEREAS the Parsee community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; And whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows:—

I.—*Preliminary.*

Short title.

I. This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."

Interpretation clause.

II. In this Act, unless there be something repugnant in the subject or context—

"Number."

Words in the singular number include the plural, and words in the plural number include the singular.

"Priest."

"Priest" means a Parsee Priest and includes Dastúr and Mobed.

"Marriage."

"Marriage" means a marriage between Parsees whether contracted before or after the commencement of this Act; and "Husband" and "Wife" respectively mean a Parsee husband and a Parsee wife.

"Husband" and "Wife."

"Section."

"Section" means a Section of this Act.

"Chief Justice."

"Chief Justice" includes Senior Judge.

"Court."

"Court" means a Court constituted under this Act.

"British India."

"British India" means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India."

"Local Government."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government; and

"High Court."

"High Court" means the highest Civil Court of appeal in such part.

II.—*Of Marriages between Parsees.*

Requisites to validity of Parsee marriages.

III. No marriage contracted after the commencement of this Act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor-General of India in Council shall, after due enquiry, publish in the Gazette of India, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Ásírvád" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

Remarriage save after divorce unlawful during lifetime of first wife or husband.

IV. No Parsee shall, after the commencement of this Act, contract any marriage in the lifetime of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this Section shall be void.

Punishment of bigamy.

V. Every Parsee who shall, after the commencement of this Act and during the lifetime of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, shall be subject to the penalties provided in Sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife.

Certificate and Registry of marriages.

VI. Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate together with a fee of two rupees to be paid by the husband, to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

Appointment of Registrar.

VII. For the purposes of this Act a Registrar shall be appointed, who may be the Registrar appointed under Act XVI of 1864 (*to provide for the Registration of Assurances*). Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

Marriage register to be open for public inspection.

VIII. The register of marriages mentioned in the sixth Section shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

IX. Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth Section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for solemnizing marriage contrary to Section 4.

X. Any Priest neglecting to comply with any of the requisitions affecting him contained in the sixth Section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for Priest's neglect of requirements of Section 6.

XI. Every other person required by the sixth Section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for omitting to subscribe and attest the certificate.

XII. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section four hundred and sixty-six of the said Code.

Penalty for making, &c., false certificate.

XIII. Any Registrar failing to enter the said certificate pursuant to the sixth Section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for failing to register certificate.

XIV. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to

Penalty for secreting, destroying or altering the register.

two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred rupees.

III.—*Of Parsee Matrimonial Courts.*

Constitution of special Courts under this Act

XV. For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras and Bombay, and in such other places in the Territories of the several Local Governments as such Governments respectively shall think fit.

Parsee Chief Matrimonial Courts.

XVI. The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be conterminous with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

Parsee District Matrimonial Courts.

XVII. Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be conterminous with the limits of the District in which it is held. The Judge of the principal Court of original Civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

Power to alter territorial jurisdiction of District Courts.

XVIII. The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its government.

Certain Districts to be within the jurisdiction of the Chief Matrimonial Court.

XIX. Any District which the Local Government, on account of the fewness of the Parsee inhabitants, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government where there is such Court.

Court Seal.

XX. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Appointment of Delegates.

XXI. The Local Governments shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees: their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

Power to appoint new Delegates.

XXII. The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the Local Government may appoint any other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

Delegates to be deemed public servants.

XXIII. All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

Selection of Delegates under Sections 16 and 17 to be from those appointed under Section 21.

XXIV. The Delegates selected under the sixteenth and seventeenth Sections to aid in the adjudication of suits under this Act, shall be taken under the orders of the presiding Judge of the Court in due rotation from

the Delegates appointed by the Local Government under the twenty-first Section.

Practitioners in Matrimonial Courts.

XXV. All Advocates, Vakeels, and Attorneys-at-law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

Court in which suits to be brought.

When defendant has left British India.

XXVI. All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit. When the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

IV.—*Of Matrimonial Suits.*

(a). For a decree of Nullity.

In case of lunacy or mental unsoundness.

XXVII. If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

In case of non-consummation owing to physical causes.

XXVIII. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

(b). For a Decree of Dissolution in Case of Absence.

In case of absence for seven years.

XXIX. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he

or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

(c). For Divorce or Judicial Separation.

On the ground of the wife's adultery.

On the ground of the husband's adultery, &c.

XXX. Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married, or fornication with an unmarried, woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

Grounds of judicial separation.

XXXI. If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

Suits for divorce or judicial separation.

XXXII. In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other

legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

Alimony *pendente lite.*

XXXIII. In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum, not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

Permanent alimony.

XXXIV. The Court may, if it shall think fit, on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life, as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

Payment of alimony to wife or to her trustee.

XXXV. In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

(d). For Restitution of Conjugal Rights.

Suit for restitution of conjugal rights.

XXXVI. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted

or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

No suit to be brought to enforce marriage or contract arising out of marriage when husband under 16 years or wife under 14 years.

XXXVII. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

Suits may be heard with closed doors.

XXXVIII. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

Stamps on plaints and petitions.

XXXIX. Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*) and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X of 1862.

Provisions of Civil Procedure Code to apply in suits under this Act.

XL. The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

Determination of questions of law and procedure, and of fact.

XLI. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

Appeal to High Court.

XLII. An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

Liberty to parties to marry again.

XLIII. When the time hereby limited for appealing against any degree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

V.—*Of the Children of the Parties.*

Custody of children *pendente lite.*

XLIV. In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

Orders as to custody of children after final decree.

Settlement of wife's property for benefit of children.

XLV. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife

is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

VI.— *Of the Mode of enforcing Penalties under this Act.*

Cognizance of offences under this Act.

XLVI. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act, committed within local limits of High Court.

XLVII. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Levy of fines by distress.

XLVIII. All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's movable property by warrant under the hand of the Officer imposing the fine.

Procedure until return is made to distress warrant.

XLIX. In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

L. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient movable property whereupon such fine could be levied if a warrant of distress were issued ,any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be derminable in each of the cases aforesaid on payment of the amount of fine.

VII.—*Miscellaneous.*

Rules of procedure of Parsee Matrimonial Courts to be made by the High Court.

LI. Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the Official Gazette.

Power to invest Chief Executive Officer with powers of Local Government.

LII. The Governor-General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

Commencement and extent of Act.

LIII. This Act shall commence and take effect on the first day of September 1865, and shall extend to the whole of British India.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	6(*c*)	Establishing the following public ferries in the following districts (*contd.*):—		
				MYMENSINGH DISTRICT—*contd.*		
				Nagda ferry ...	28 5 1912	Vol. III, p. 1091.
				Nagla „ ...	15 9 1905	Ditto, p. 1071.
				Nagua „ ...	17 5 1915	Ditto, p. 1102.
				Nakasim ferry with Morajani Khal branch ferry.	6 3 1914	Ditto, p. 1096.
				Pakulla ferry ...		
				Pakulla „ ...	15 9 1905	Ditto, p. 1071.
				Palima Khal „ ...	6 3 1914	Ditto, p. 1096.
				Pathanda „ ...	1 9 1908	Ditto, p. 1079.
				Rasulpur „ ...	1859, 20 4 1917	Ditto, p. 1107.
				Sarchapur „ ...	15 9 1905	Ditto, p. 1071.
				Sherpur to Nalitabari District Board Road 54th mile gap ferry.	30 3 1914	Ditto, p. 1097
				Shimulia ferry ...	17 5 1915	Ditto, p. 1102.
				Shoya Khal „	6 3 1914	Ditto, p. 1096.

OUDE.—REVENUE COURTS.

ACT No. XVI. OF 1865.

[*Received the assent of the G. G. on the 7th April* 1865.]

Recites that doubts had arisen under the Code of Civil Procedure as to the jurisdiction of the Courts of Revenue and Chief Commissioner, &c., in Oude, and the expediency of removing those doubts.

1. Interprets words of Number, and the words Courts of Revenue, Land.

2—3. Declares that the Courts of Revenue and of the Financial Commissioner shall exercise jurisdiction in all suits in any District relating solely to the title, succession or possession of land, during the period that any settlement of the Land Revenue is in progress, and during the continuance of such settlement, and for any further period notified in Gazette, &c.; and authorizes the Governor-General in Council to invest Appellate powers in any officer, &c.; and (3) makes the Financial Commissioner the highest Court of Appeal from the Revenue Courts, and prescribes for it the same rules of Procedure as the Sudder Court; and for all Courts the Code of Civil Procedure.

4. Makes the jurisdiction conferred on the Courts of Revenue and the Financial Commissioner exclusive for the suits in Section 2 specified.

5—8. Repeals the Law of Limitation for bringing suits relating to under-tenures, as to all causes of action which have arisen since February 13th, 1844, except as to suits by persons claiming only as tenants at will, or as having a right of occupancy, or as tenants at fixed or favorable rates; and (6) revives suits which had been dismissed or rejected under the Law of Limitation repealed by the last Section, provided a Petition to revive be brought within six months from date of the Act; the Petition to be on Stamped Paper; and (7) such revived suits to be heard and determined in the Civil Courts according to their respective jurisdictions, &c.; and (8) makes decrees, &c., on such suits valid notwithstanding any provision in the operation of the Code of Civil Procedure.

Preamble.

WHEREAS, before the introduction of the Code of Civil Procedure into the Province of Oude, the jurisdiction in suits relating to the title or succession to land in the said Province, or to the possession of land, or to any right in respect of any land, was vested exclusively in the Courts of Revenue and in the Financial Commissioner, and after that office became vacant, in the Chief Commissioner; And whereas since the introduction of the said Code doubts have arisen whether such suits are cognizable in the first instance by the ordinary Civil Courts and on appeal

by the Judicial Commissioner, or in the first instance by the Revenue Courts and on appeal by the Chief Commissioner, or Financial Commissioner whose office has now been revived; And whereas it is expedient to remove such doubts and to enlarge the period of limitation within which certain classes of suits may be entertained under this Act; It is enacted as follows :—

Interpretation Clause.

I. In the construction of this Act, except where there is something repugnant in the subject or context—

Number.

Words in the singular number shall include the plural, and words in the plural number shall include the singular.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

Suits and appeals relating to land during progress of Revenue Settlement to be cognizable by Courts of Revenue and Financial Commissioner.

II. In any District in the Province of Oude in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement, and for such further period thereafter as the Governor-General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decisions of the Court of first instance to the Court of

first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: Provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

Powers of Financial Commissioner as highest Court of appeal.

III. The Financial Commissioner shall, with respect to suits cognizable by the Revenue Courts under the second Section of this Act, be deemed the highest Court of appeal in the Province of Oude within the meaning of the Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations and provisos with which the Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the sixth August 1861. Subject to the same restrictions, limitations and provisos, the proceedings of the Courts of first appeal and the Court of first instance shall be regulated by the Code of Civil Procedure.

Suits not to be instituted or tried by any other than the Court or authority before specified.

IV. Subject to the proviso in the second Section of this Act, no suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in the said Section, be instituted or tried in any Court, or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

Limitation rules not to apply to certain suits relating to under-tenures.

V. No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844.

Provided that this Section shall not apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favorable rates.

Certain suits relating to under-tenures dismissed on ground of limitation-bar may be revived.

VI. Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section), cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

Procedure applicable to suits relating to land instituted after period mentioned in Section 2.

VII. All suits relating to the proprietary right in, succession to or possession of, any land, or to any right in respect to any land, which shall be instituted after the expiration of the period appointed in the second Section of this Act, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

Saving of orders and decisions of Revenue Courts after the extension of Code of Civil Procedure to Oude.

VIII. No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to or possession

of, any land, or to any right in respect of any land, in the said Province, shall be invalid by reason of anything contained in the said Code.

CUSTOMS DUTIES ON EXPORTS AND IMPORTS,

ACT No. XVII. OF 1865.

[*Received the assent of the G. G. on the* 10*th April* 1865.]

Recites expediency of amending the Law relating to Customs Duties.

1—3. Substitutes Duties in Schedules A. and B. for Duties under Acts VII, 1859; XXIII, 1859; X, 1860; XI, 1862; XXIII, 1862; XXIII, 1864. Saving, however, existing Duties on Salt and Opium, Free Ports, the provisions of Act VI, 1848, and the provisions of the Consolidated Customs Act: this Act as respects Saltpetre to take effect as from March 9th, 1865, and (3) to be called the Indian Customs Duties Act of 1865.

Schedule A.—Import Duties. B.—Export Duties.

Preamble.

WHEREAS it is expedient to amend the Law relating to Customs duties; It is enacted as follows:—

Customs Duties to be levied as prescribed in the Schedules annexed to this Act.

I. In lieu of the Customs duties authorized to be charged in Act VII of 1859 (*to alter the duties of Customs on goods imported or exported by Sea*), Act XXIII of 1859 (*to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively*), Act X of 1860 (*to amend Act VII of* 1859 *to alter the duties of Customs on goods imported or exported by Sea*), Act XI of 1862 (*to amend Act X of* 1860, *to amend Act VII of* 1859), Act XXIII of 1862 (*to amend Act XI of* 1862), and Act XXIII of 1864 (*to amend the law relating to the Customs duties on goods imported by Sea*), there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained, shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (*for equalizing the duties on goods imported and exported on Foreign and British bottoms, and for abolishing duties on goods carried from Port to Port in the Territories*

subject to the Government of the East India Company), or to affect the provisions of the Consolidated Customs' Act.

Operation of Act.

II. So far as regards the Customs duty on the export of Saltpetre, this Act shall take effect as if it had been passed and had received the assent of the Governor-General on the ninth day of March 1865; but save as aforesaid, this Act shall take effect from the first day of April 1865.

Short title.

III. This Act shall be cited as "The Indian Customs Duties Act of 1865."

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India, not being a Free Port:—

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	"
3.	Grain and Pulse	"
4.	Horses and other living Animals	"
5.	Ice	"
6.	Coal, Coke, Bricks, Chalk, and Stones ...	"
7.	Cotton Wool	"
8.	Wool	"
9.	Flax	"
10.	Hemp	"
11.	Jute	"
12.	Hides and Skins, raw	"
13.	Books	"
14.	Paper	"
15.	Maps, Prints, Music, and Works of Art ...	"
16.	Seeds when imported by any Public Society for gratuitous distribution	"
17.	Agricultural Implements	"
18.	Firewood	"
19.	Machinery used exclusively for purposes of Agriculture, Navigation, Mining, or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery ...	"

And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery, or materials forming component parts thereof, and such decision shall be final in law.

20.	Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service ...	Free.
21.	Guano and manures of all kinds	,,
22.	Bottles	,,
23.	Wines and Liqueurs ...	One Rupee the imperial gallon.
24.	Porter, Ale, Beer, Cider, and other similar fermented Liquors ...	One anna the imperial gallon.
25.	Spirits ...	Three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.

Provided that ten per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.

26.	Iron (which shall not be taken to include ironmongery, cutlery, or hardware)	One per cent. *ad valorem*.
27.	Hops	One per cent. *ad valorem*.
28.	Tobacco, whether manufactured or not manufactured	Ten per cent. *ad valorem*.

29.	Piece Goods	Five per cent. *ad valorem.*
30.	Twist	Three and a half per cent. *ad valorem.*
31.	All other articles not included in the above enumeration ...	Seven and a half per cent. *ad valorem.*

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port as defined in the Consolidated Customs' Act, from any Port in British India.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	,,
3.	Horses and other living Animals	,,
4.	Rum	,,
5.	Spirits	,,
6.	Tobacco, and all preparations thereof	,,
7.	Cotton Wool	,,
8.	Flax	,,
9.	Hemp	,,
10.	Books	,,
11.	Maps, Prints, and Works of Art	,,
12.	Teak Timber	,,
13.	Coal	,,
14.	Iron	,,
15.	Grain and Pulse of all sorts ... Three annas the Indian maund	Of forty seers of eighty tolahs to the seer.
16.	Saltpetre ... One Rupee the Indian maund	
17.	Indigo ... Three Rupees the Indian maund	
18.	Lac Dye and Shell Lac ... Four per cent. *ad valorem.*	
19.	Hides and Skins, raw Two per cent. *ad valorem.*	

20.	Sugar ...	Two per cent. *ad valorem.*
21.	Raw Silk and Silk Chussem ...	Two per cent. *ad valorem.*
22.	All country articles not enumerated or named above	Three per cent. *ad valorem.*

STAMP DUTIES.

ACT No. XVIII. OF 1865.

[*Received the assent of the G. G. on the* 10*th April* 1865.]

1—2. Repeals Act X, 1862, Section 33; and (2) empowers the Governor-General in Council to reduce or remit the Stamp Duties prescribed by that Act.

3—4. Amends Act X, 1862, Schedule B, Art. 11; and (4) makes this Act part of said Act.

Preamble.

WHEREAS it is expedient to amend Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*); It is enacted as follows:—

Act X of 1862, Section 33, repealed.

I. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

Governor-General in Council may lower rates of Stamp Duty on any Deeds, &c., mentioned in the Schedule, or on any class of such Deeds, &c.

II. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on all or any of the Deeds, Instruments, and Writings, mentioned in the Schedules thereto, or on any particular class of such Deeds, Instruments, and Writings, or on any of the Deeds, Instruments, and Writings, belonging to such class; or on any of the Deeds, Instruments, and Writings, as aforesaid, when executed or granted by or to any particular class of persons, or by or to any members of such class, and may in like manner cancel

or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be published in the Official Gazette.

Addition to Act X of 1862, Schedule B, Article 11.

III. Article 11 of Schedule B to Act X of 1862 shall be read as if after the words and figures "Act III of 1859," the following words were inserted, that is to say, "or in Courts of Small Causes established under Section 6 of Act XXII of 1864" (*to make provision for the administration of Military Cantonments.*)

This Act to be taken as part of Act X of 1862.

IV. This Act shall be read with and taken as part of the said Act No. X of 1862.

PUNJAB.—JURISDICTION OF COURTS.

ACT No. XIX. OF 1865.

[*Received the assent of the G. G. on the* 10*th April* 1865.]

1. Entitles the Act, the Punjab Courts Act, 1865.

2. Interprets the words Assistant Commissioner, Extra Assistant Commissioner, Land, District, District Court, Division, Divisional Court.

3. Defines what shall be a District and what a Division.

4—12. Directs the appointment of seven grades of Courts, and names them; and (5) empowers the Local Government to invest any Tehsildar; and (6) any Naib Tehsildar with judicial powers to extent specified; and (7) gives the Assistant Commissioner and (8) the Assistant Commissioner with special powers jurisdiction to extent specified; and (9) limits and appoints the Criminal Powers of the 1st, 2nd, and 3rd grades; and (10) gives the Assistant Commissioner with full Powers Civil jurisdiction to extent specified; and (11) the Deputy Commissioner unlimited jurisdiction on the Civil side, and Appellate jurisdiction, and the powers of a Magistrate on the Criminal side, and Appellate powers to extent specified; and (12) gives the Commissioner general jurisdiction in Civil suit both original and appellate, the latter from Courts of the 4th, 5th and 6th grades, and the Criminal powers, original and appellate, of Sessions Judge.

13. Directs that every suit shall be commenced in the lowest grade of Court competent to try it.

14. Empowers the Deputy Commissioner to distribute business among the different Courts subordinate to him.

15. Empowers the Commissioner and Deputy Commissioner to withdraw any suit from subordinate Court and try it, and Commissioner to withdraw any appeal from Deputy and try it, or transfer it to other Deputy.

16. Empowers Judicial Commissioner to withdraw any suit or appeal from any subordinate Court, and to refer it to other Court.

17. Allows suits for immoveable property situate in one District, but within several jurisdictions, to be brought in any of the Local Courts having competent jurisdiction, &c.

18—19. Similar provision as to suits for immoveable property situate in same Division, but within several jurisdictions.

20. Empowers Local Government, with sanction of Governor-General in Council, to invest any Officer with the Judicial powers of Deputy or Commissioner, when cases depending are so numerous as not to be disposed of in reasonable time.

21—22. In Districts in which settlement of Land Revenue is in progress, Local Government may empower the Tehsildar, Assistant and Deputy Commissioners, and Commissioner to exercise their powers on the Revenue side of their Courts; and (22) in such Districts the Local Government may invest the Financial Commissioner with the powers of Judicial Commissioner for purpose of trying Special Appeals, &c., and such powers of Judicial Commissioner shall cease when those of Financial Commissioner begin.

23. Excludes from jurisdiction of Revenue Courts and Financial Commissioner cases of succession and inheritance in which the suit relates to other property besides land.

24. Objections to the authority of an Officer not to affect the validity of his decision.

25. Act to come into operation on 1st May 1865.

Preamble.

WHEREAS it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; It is enacted as follows:—

Short title.

I. This Act shall be called "The Punjab Courts Act, 1865."

Interpretation clause.

II. In this Act—

"Assistant Commissioner."

"Assistant Commissioner" includes "Extra Assistant Commissioner."

"Land."

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

III. For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

"District."
"District Court."
"Division."
"Divisional Court."

IV. There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, unless otherwise provided in such Act, namely :—

Grades of Courts in the Punjab.

(1.)—The Court of the Tahsildar.

(2.)—The Court of the Assistant Commissioner with ordinary powers.

(3.)—The Court of the Assistant Commissioner with special powers.

(4.)—The Court of the Assistant Commissioner with full powers.

(5.)—The Court of the Deputy Commissioner.

(6.)—The Court of the Commissioner.

(7.)—The Court of the Judicial Commissioner.

V. The Local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

Jurisdiction of Tahsildar.

VI. The Local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.

Local Government may in special cases give Naib Tahsildars powers of Tahsildar.

VII. The Assistant Commissioner with ordinary powers shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

Jurisdiction of Assistant Commissioner with ordinary powers.

Jurisdiction of Assistant Commissioner with special powers.

VIII. The Assistant Commissioner with special powers shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

Criminal powers to be exercised by Courts of the 1st, 2nd, and 3rd grades.

IX. The Criminal powers to be exercised by the Courts of the said first, second and third grades respectively, shall be those with which the several Officers presiding in those Courts shall from time to time be invested by the Local Government under Section 23 of the Code of Criminal Procedure.

Jurisdiction of Assistant Commissioner with full powers.

X. The Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description under ten thousand Rupees in value or amount, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

Jurisdiction of Deputy Commissioner.

XI. The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in the fourth Section of this Act, and, on the Criminal side, to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the Local Government with the powers described in Act No. XV. of 1862 (*to amend the Code of Criminal Procedure*).

Jurisdiction of Commissioner.

XII. The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine

appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the Courts of the said fourth and fifth grades, and, on the Criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

Court in which suit shall be instituted.

XIII. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Distribution of business in Courts subordinate to Deputy Commissioner.

XIV. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.

Power of Commissioner or Deputy Commissioner to withdraw suits from subordinate Courts.

XV. The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him and try such suit himself, or refer it for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Power of Judicial Commissioner to transfer suits.

XVI. The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court

subordinate to him and competent in respect of the value or amount of the suit to try the same.

Suits for immovable property situate within different jurisdictions of single District.

XVII. If the suit be for immovable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

Suits for immovable property situated in different Districts.

XVIII. If the suit be for immovable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immovable property situate in Districts subject to different Commissioners.

XIX. If the Districts within the limits of which the immovable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be submitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit.

Local Government may invest additional Officers with powers of Commissioner, and Small Cause Court Judges with powers of Assistant Commissioner.

XX. Whenever the number of cases depending in any District or Divisional Court shall be so great as to prevent their being disposed of within a reasonable period, the Local Government may, with the previous sanction of the Governor-General of India in Council, invest any Officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.

Local Government may invest special Officers with Civil powers of Commissioners, &c., in Districts in course of settlem nt.

XXI. In any District in which a Settlement of Land Revenue is in progress, the Local Government may, on its own authority, empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioner, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land, or the rent, revenue, or produce of land, on the Revenue and not on the Civil side of their Courts. The Local Government may also, with the previous sanction of the Governor-General of India in Council, invest any special Officer in such District with the Civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner, or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land, or the rent, revenue, or produce of land; such powers to be exercised on the Revenue side: Provided that in all such suits as aforesaid no deviation shall be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in the District, and shall cease on the termination thereof.

Local Government may invest Financial Commissioner with powers of Chief Court for certain purposes.

XXII. In any District in which a Settlement of Land Revenue is in progress, the Local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Com-

missioners in all decisions passed by them in regular appeal under the twenty-first Section of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land:

Proviso.

Provided that in the trial of such appeals no deviation shall be allowed from the Rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So long as the Financial Commissioner may be invested with powers as aforesaid, the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.

Exclusion of jurisdiction, under Sections 21 and 22, of Revenue Courts and Financial Commissioner.

XXIII. Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under the twenty-first or the twenty-second Section of this Act.

Saving of decisions and orders passed before passing of this Act.

XXIV. No decision or order passed by any Officer in the Punjab and its Dependencies prior to the passing of this Act, shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

Commencement of Act.

XXV. This Act shall commence and come into operation on the first day of May 1865.

PLEADERS AND MOOKHTARS.

ACT No. XX. OF 1865.

[*Received the assent of the G. G. on the* 10*th April* 1865.]

Recites the expediency of amending the Law relating to Pleaders and Mookhtars, &c.

Preliminary.

1. Entitles the Act, the Pleaders, Mookhtars and Revenue Agents' Act, 1865.

2. Interprets words of Number, and the words Section, Person, Pleader, Collector, Magistrate, Judge, Court, District, District Court, Local Government, High Court, Board of Revenue.

3. Repeals as to Territories to which this Act extends the Scheduled Regulations and Acts.

Of Pleaders and Mookhtars.

4—5. Authorizes and requires the High Court, within six months after this Act shall take effect, to make Rules for the qualification, admission, &c., of Pleaders and Mookhtars in the Courts, and for fees to be paid on admission, &c., and (5) excludes from practice persons not admitted according to the Rules, &c.; saving, however, that persons entitled, when this Act comes into operation, to be admitted as Pleaders in the High Court may be admitted without examination.

6. Authorizes Local Government to appoint a Board of Examiners.

7—10.—Requires High Court to enrol the names of admitted Pleaders and Mookhtars; and (8) to cause Certificates of Admission to be issued, (9) on Stamp Paper in form as in Schedule, and (10) such stamps to be graduated as specified.

11—15. Entitles Pleaders who are admitted to plead and act in any Criminal Court or before Board of Revenue, and Mookhtars to appear and act in Civil Court, and appear, plead and act in any Criminal Court, in which (12) they shall previously have procured enrolment for the purpose of practising therein, but these provisions not to apply to Courts established by Royal Charter; and (13) subjects persons practising as Pleaders and Mookhtars to penalties for practising without Certificate, and to disability to recover remuneration for their services; and (14) empowers the High Court to suspend or dismiss any enrolled Pleader or Mookhtar who shall have been convicted of any criminal offence, or (15) shall be guilty of fraudulent conduct in his profession, or for any other reasonable cause.

16—18. Directs the mode of procedure in charges under this Act, the finding of the Court to be reported to the High Court, which shall thereupon acquit, suspend or dismiss the party, and, pending the investigation, the party may be suspended from practising, &c.; and (17) in case of acquittal by any Court other than the High Court, the Judge's Court may call for the proceedings and pass orders thereon; and (18) on suspension or dismissal the party shall deliver up his Certificate, under penalty, and liability to fine if he practises after suspension, &c.

Of Agents practising in the Revenue Offices.

19—22. Prohibits persons other than Certificated Pleaders from practising as General Agents before Board of Revenue, &c., and directs by whom Certificates may be signed; and (20) requires enrolment of person admitted; and (21) prescribes the form of Certificate, which shall be for one year, on Stamp Paper, and may be renewed, such stamp (22) to be of specified amounts.

23—24. Directs the Board of Revenue to prepare Rules to define the qualifications for a Certificate, and to satisfy themselves of fitness before Certificate is granted; and (24) Local Government to appoint Examiners.

25. Directs Certificated Agent to be enrolled in office in which he intends habitually to practise.

26—30. Empowers Board of Revenue to suspend or dismiss any Revenue Agent convicted of criminal offence; and (27) who may be guilty of fraudulent conduct, &c., in his office, or for other reasonable cause; and (28) if the latter offence be committed in practice before the Board, the Board after enquiry shall report to the High Court, which, on further enquiry if it sees fit, is to proceed to acquit, suspend or dismiss the party. And pending proceedings of the High Court, the Board of Revenue may suspend the party; and (29) directs the mode of procedure when the offence is committed in an Office subordinate to the Board; and (30) authorizes the Board to call for the record, whenever the acquittal was otherwise than by an order of itself or the High Court.

31—34. Entitles the High Court after enquiry to suspend or dismiss any Mookhtar who has been dismissed or suspended as Revenue Agent; and (32) extends to Pleader and Mookhtar who has been suspended the provisions of Sections 28, 29, 31; and (33) requires delivery up of the Certificate on suspension or dismissal, under penalty specified; and (34) imposes a penalty on persons practising while under suspension or after dismissal.

35—36. Saves the right of the parties concerned in business before any Revenue Office to employ special agent, though not an enrolled practitioner, with the general or special sanction of the Board of Revenue, &c.; which sanction (36) may be revoked, &c.

Of the Remuneration of Pleaders and Revenue Agents.

37—39. Directs and authorizes the High Court and Board of Revenue to fix and make a Table of Fees to be allowed as against opposite party; but (38) not for special Agents under Section 35; and (39) allows remuneration to be fixed by private agreement as between the suitor and his own Pleader, &c.

Miscellaneous.

40. Entitles suitors to appear, plead and act for any co-suitor; and defendant in criminal proceeding may employ any person to assist him in his defence, but without fee.

41. Directs publication in Gazette of all Rules made under the Act, the same having first been approved by Local Government.

42. Makes Fines under this Act subject to revision by High Court or Board of Revenue.

43—44. Saves to existing Pleaders the right to be enrolled under this Act; and (44) except Section 39, this Act is not to apply to Advocates, Vakeels and Attornies-at-Law already enrolled in High Court, nor to existing Mookhtars of High Court. But High Court may make rules for qualification, admission, &c., of such Mookhtars on the Appellate side, and for the regulation of their Fees.

45—46. Saves the right of High Court Advocates and Vakeels to practise in any Court in which he is not enrolled, with permission of the Court, &c.; and (46) gives High Court Attornies the right to practise in any Court in India, &c.

47—48. Act to come into operation in Bengal on June 1st, 1866, and may be extended by Local Governments to their territories; and (48) from time of extension, Regulations inconsistent with this Act to cease.

Schedule First—Acts, &c., repealed. Second—Form of Pleaders or Mookhtars' Certificates. Third—Form of Revenue Agent's Certificate.

Preamble.

WHEREAS it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension and dismissal of Revenue Agents; It is enacted as follows:—

Preliminary.

Short title.

I. This Act may be cited as "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

Interpretation of terms.

II. In this Act, unless there be something repugnant or inconsistent in the subject or context—

Number.

Words importing the singular number include the plural, and words importing the plural number include the singular.

"Section."

"Section" means a Section of this Act.

"Person."

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader."

"Pleader" includes Vakeels.

"Collector."

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate."

"Magistrate" includes Officers exercising any of the powers of a Magistrate.

"Judge."

"Judge" means the presiding Judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court."

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District."

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and

"District Court."

"District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner or any other Court in the Territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates,

"Local Government."

"Local Government" denotes the person authorized to administer the executive Government in such part:

"High Court."

"High Court" denotes the highest Civil Court of Appeal, and

"Board of Revenue."

"Board of Revenue" denotes the chief Revenue Authority therein.

Laws repealed.

III. So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

Of Pleaders and Mookhtars.

IV. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time vary and add to such rules.

High Court to make rules for qualification, &c., of Pleaders and Mookhtars.

V. Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act as, a Pleader in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

No person to practise as a Pleader or as a Mookhtar unless qualified under this Act.

Saving of Pleaders already qualified.

VI. To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the

Local Government to appoint Examiners.

purposes aforesaid, and make regulations for conducting such examinations.

Names of Pleaders and Mookhtars to be enrolled.

VII. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

Certificates to be issued to Pleaders and Mookhtars.

VIII. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in the ninth Section, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

Form and duration of certificate.

IX. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

Value of stamp on certificate.

X. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—Rupees fifty:

(*b.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees twenty-five:

(*c.*) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees fifteen:

(*d.*) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees five.

On a certificate authorizing the holder to practise as a Mookhtar—

(*e.*) In the High Court and any subordinate Court—Rupees twenty-five:

(*f.*) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees sixteen:

(*g.*) In the Courts of the Commissioners of Circuit, Magistrates and subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners and Tahsildars—Rupees eight:

(*h.*) In the Moonsiffs' Courts or any Court of first instance not herein-before mentioned—Rupees four.

Pleaders may practise in Criminal Courts and Revenue Offices.

XI. Pleaders duly admitted and enrolled under this Act may appear, plead and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

Mookhtars may plead in Criminal Courts.

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

XII. Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is

authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

XIII. Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil jail for a period not exceeding six calendar months. He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

XIV. The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

XV. The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid, who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

XVI. If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case

may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report, when made by any Officer other than the District Judge, shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court

Suspension pending investigation

XVII. The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

High Court may call for the record in case of acquittal under Section 16.

XVIII. When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to

Dismissed Pleader or Mookhtar to surrender his certificate.

any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three calendar months. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding six calendar months.

Of Agents practising in the Revenue Offices.

No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as herein provided.

XIX. No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

Names of Revenue Agents to be enrolled.

XX. The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

Form of certificate.

XXI. Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At

the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

Value of stamp.

XXII. The stamp on such certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Revenue Agent—

In the Board of Revenue or in any Office subordinate to the Board—Rupees fifteen:

In the Office of a Commissioner or in any Office subordinate to a Commissioner—Rupees ten:

In the Office of a Collector or in any Office subordinate to a Collector—Rupees five.

Revenue Board to ascertain qualifications of Revenue Agents.

XXIII. The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

Local Government to appoint Examiners.

XXIV. To facilitate the ascertainment of the qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

Enrolment of Revenue Agent in Office in which he shall usually practise.

XXV. Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall

desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him and subject to the conditions as aforesaid, to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

Board of Revenue may suspend or dismiss Revenue Agent convicted of criminal offence.

XXVI. The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

Board may suspend or dismiss Revenue Agent practising before it and guilty of unprofessional conduct.

XXVII. The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Procedure when a Pleader is charged with unprofessional conduct before the Board of Revenue.

XXVIII. If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practice, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

Procedure when Pleader or Revenue Agent is so charged in any Office subordinate to Board of Revenue.

XXIX. If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and

also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged at least ten days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

Power to Board to call for record.

XXX. The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

Report to High Court when dismissed Revenue Agent is also an enrolled Mookhtar.

XXXI. Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any enquiry which it

may think necessary, may suspend or dismiss him as such Mookhtar.

Section 18 to apply to Vakeel or Mookhtar suspended or dismissed under Sections 28, 29, or 31.

XXXII. The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth, or thirty-first Section.

Dismissed Revenue Agent to surrender his certificate.

XXXIII. When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil jail for a term not exceeding three calendar months.

Penalty on unqualified person practising as Agent.

XXXIV. Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act extends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding Rupees two hundred, and, in default of payment, to imprisonment in the Civil jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him in the course of such practising.

Persons authorized by general or special powers of attorney may be Agents.

XXXV. Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in

any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or a special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid, unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

Sanction required.

XXXVI. Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

Sanction may be revoked or suspended

Of the Remuneration of Pleaders and Revenue Agents.

XXXVII. The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party inrespect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

High Court and Revenue Board to fix fees on Civil and Revenue proceedings.

XXXVIII. The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

Section 37 not to apply to Agents appointed under Section 35.

XXXIX. Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office, shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall

Clients may make private agreements with their Pleaders Mookhtars or Revenue Agents, as to remuneration.

not be necessary to specify such agreement in the power under which such Pleaders, Mookhtars or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

Miscellaneous.

Suitors may appear, &c., for co-suitors.

Prosecutors or prisoners may employ any assistant.

Fees not recoverable by such persons.

XL. Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

Rules to be published in the Gazette.

XLI. The rules mentioned in the fourth and twenty third Sections and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

Fines subject to revision.

XLII. Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

Pleaders in subordinate Courts may apply to District Judge for enrolment.

XLIII. Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act, may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court,

shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the eighth, ninth and tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

Act not to apply to Advocates, &c., admitted and enrolled by any High Court under Letters Patent.

XLIV. With the exception of Section thirty-nine this Act shall not apply to Advocates, Vakeels and Attorneys-at-law, admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, nor to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension and dismissal of the Mookhtars practising on the appellate side of such Court and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings on the appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties and fees so made, prescribed and fixed and every variation thereof shall be published in three consecutive numbers of the Official Gazette.

Advocates and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled.

XLV. Every person now, or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court,

and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Office is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

Attorney of a High Court may plead in any Court not a High Court.

XLVI. Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

Commencement and extent of Act.

XLVII. This Act shall take effect in the Territories under the Governments of the Lieutenant-Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

Repeal of inconsistent enactments in Madras, Bombay, the Punjab, &c.

XLVIII. From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

FIRST SCHEDULE

Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code.	For reducing into one Regulation, with amendments and modifications, the several Rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code.	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent, or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section 25.
Regulation IX, 1825.	Bengal Code.	For extending the operation of Regulation VII, 1822; for authorising the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the Rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section 5, as provides that Section 25 of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the Rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.

Number and date of Acts.	Title.	Extent of Repeal.
Act I of 1846.	For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole.
Act XVIII of 1852.	To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.	The whole.
Act XX of 1853.	To amend the law relating to Pleaders in the Courts of the East India Company.	The whole.
Act X of 1859.	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	So much of Section 71 as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section 149.

SECOND SCHEDULE.

Form of Pleader or Mookhtar's Certificate.

Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [*or* Mookhtar] whose place [*or* places] of business is [*or* are] at hath this day delivered and left with me a Declaration in writing signed by him, and containing his name and place [*or* places] of business and the Court [*or* Courts] of which he is admitted a Pleader [*or* Mookhtar,] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [*or* the Sudder Court of the North-

Western Provinces, *or as the case may be*], and that he is entitled to practise as a Pleader [*or* Mookhtar] in the District Courts, Subordinate Courts, and Small Cause Courts, [*or* the Sudder Court of the North-Western Provinces, and any Subordinate Court, *or* the Sudder Ameens' Courts, *or* the Moonsiffs' Courts, *as the case may be*], and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [*or* of the North-Western Provinces, *or as the case may be*] for the period of one year from the date hereof. Given under my hand this
day of 186 .

C. D.

Registrar [*or as the case may be*] of the High Court of Judicature at Fort William in Bengal [*or* of the Sudder Court of the North-Western Provinces, *or as the case may be.*]

THIRD SCHEDULE.

Form of Revenue Agent's Certificate.

Stamp

Pursuant to "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865," I hereby certify that A. B.
of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [*or* of the Lower Provinces, *or as the case may be*], and in any Office subordinate thereto in such Provinces for the period of one year from the date hereof. Given under my hand this day of 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [*or* the Lower Provinces, *or as the case may be.*]

PARSEE INTESTATE SUCCESSION.

ACT No. XXI. of 1865.

[*Received the assent of the G. G. on the* 10*th April* 1865.]

Recites expediency of defining and amending the Law of Intestate Succession among Parsees.

Of Property.

1—7. As to division on death of Parsee leaving widow and children of both sexes; (2) on death of wife leaving a widower and children; (3) leaving children but no widow; (4) leaving children but no widower; (5) as to share of widow or widower of a deceased child and the children of such child; (6) as to distribution in case deceased leaves a widow or widower, but no lineal descendants but father or mother or both surviving, or neither father or mother, but relations on the father's side, or no relations on the father's side; or (7) neither lineal descendants nor widow or widower; and as to shares of next of kin in such case.

8. Exempts Parsee succession from operation of the Indian Succession Act, part 3, and part 4, except S. 25, part 5, and S. 43.

Shedules First, Second.

Preamble.

WHEREAS it is expedient to define and amend the Law relating to Intestate Succession among the Parsees; It is enacted as follows:—

Division of property among widow and children of Intestate.

I. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

Division of property among widower and children of Intestate.

II. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

Division of property amongst the children of male Intestate who leaves no widow.

III. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

Division of property amongst the children of female Intestate who leaves no widower.

IV. When a female Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

Division of pre-deceased child's share of Intestate's property among the widow or widower and issue of such child.

V. If any child of a Parsee Intestate shall have died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death.

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

VI. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

Division of property when the Intestate leaves neither widow nor widower nor lineal descendants.

VII. When a Parsee dies leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of the

property as to which he or she shall have died intestate. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

VIII. The following portions of the Indian Succession Act, 1865, shall not apply to Parsees (that is to say) the whole of Part III, the whole of Part IV excepting Section twenty-five, the whole of Part V, and Section forty-three.

THE FIRST SCHEDULE.

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2) Grandfather and grandmother.

(3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great grandfather and great grandmother.

(5.) Great grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

THE SECOND SCHEDULE.

(1.) Father and mother.

(2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not re-married at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

LUCKNOW MUNICIPAL COMMITTEE.

ACT No. XXII of 1865.

[*Received the assent of the G. G. on the* 17*th April* 1865.]

1—2. Repeals Act 18, 1864, S. 21; and (2) empowers Government to extend that Act to any place under the administration of the Government of India.

3. This Act to be taken as part of Act 18, 1864.

Preamble.

WHEREAS it is expedient to amend Act No. XVIII of 1864 (*to provide for the appointment of a Municipal Committee for the City of Lucknow*); It is enacted as follows :—

Act XVIII of 1864, Section 21, repealed.

I. Section twenty-one of the said Act No. XVIII of 1864 is hereby repealed, and the following Section shall be read in lieu thereof.

Power to Governor-General in Council to extend Act XVIII of 1864.

II. It shall be lawful for the Governor-General of India in Council, by Order published in the Gazette of India, to extend the said Act to any place under the immediate administration of the Government of India; and when so extended, it shall have effect in such place as if the name of such place were substituted throughout the said Act for the name "Lucknow." The Governor-General of India in Council shall by such Order declare how many persons shall be members, and what and how many persons shall be *ex-officio* members, of the Committee to be constituted in the place to which the said Act shall have been so extended: Provided that the number of such *ex-officio* members shall not be more than one-third of the number of all the members of such Committee.

This Act to be construed with Act XVIII of 1864.

III. This Act shall be read and taken as part of the said Act No. XVIII of 1864.

PUNJAB CHIEF COURT OF JUDICATURE.

ACT No. XXIII OF 1865.

[*Received the assent of the G. G. on the* 17*th April* 1865.]

Recites expediency of amending the constitution of the Court of the Judicial Commissioner of the Punjab, &c.

1. Interprets the words Punjab, Lieutenant-Governor, Chief Court, Judge, Registrar, Magistrate, Barrister, Section, and as to construction of words of number, and words of gender.

2—5. Names the Court, the Chief Court of the Punjab, and directs that it shall consist of two or more Judges, one of whom is to be a Barrister to be appointed by the G. G.; and (2) to rank according to seniority of appointment; and (3) hold their offices during pleasure; and to take specified oath on assuming their office.

6—8. Authorizes the Judges to appoint a Registrar, &c. with duties to be defined by rule, &c.; and (7) to appoint a Deputy Registrar and necessary Clerks; and (8) all Officers and Clerks to be liable to dismissal by the Court.

9. Directs that this Court shall have a seal with specified inscription.

10—11. Defines who may appear and plead in the Court, *e. g.* Government Solicitor for Government, suitors for themselves and co-suitors, Advocates, Vakeels, or Attornies of the High Court or Sudder Court of the North-West Provinces, but no person to appear as Pleader without being generally or specially licensed, &c.; and (11) these licenses may be revoked by the Court.

12. Fees of Pleaders (but not of Advocates) to be subject to Rules, &c.

13. Constitutes the Chief Court one sole Court of Appeal from all the Civil and Criminal Courts of the Punjab in matters appealable to the High Court save as respects specified classes of suits while a settlement of Land Revenue is going on.

14—17. Empowers the Chief Court to withdraw suits from Subordinate Courts; and (15) to order transfer of suits or appeals from one Court to another; and (16) to call for records of Small Cause Courts; and (17) directs that all special appeals from all grades of Courts shall be to Chief Court only.

18—19. Directs that Chief Court Procedure (save as otherwise specially enacted) be regulated by Punjab Rules; and (19) existing rules of law or equity and good conscience to be continued until altered.

20—22. Empowers the Chief Court to try European British subjects, and commitments of such to be for trial by the Chief Court; such trial to be at place ordered by Chief Court; and (21) the proceedings and commitments shall be sent by the Committing Justices to the Registrar of the High Court; and (22) empowers the Chief Court to amend, &c., the charge.

23. Entitles the accused to have a copy of the depositions.

24—25. Accused to be tried on charge recorded; and (25) if such charge appears to be clearly unsustainable, Judge may record a *nolle prosequi*, the effect of which shall be an acquittal if for three years afterwards no fresh charge is preferred.

26. Directs that the Court shall ordinarily hold its sittings at the seat of Government and at other places as convenience may require with the approval of Government.

27—29. Directs that commitments of European British subjects, &c., for intermediate custody shall be to the nearest Criminal Jail until the Chief Court has ordered the place for trial, after which the further custody is to depend on the place of trial; and (28) empowers the Chief Court to issue general directions as to places for trial and commitments within specified districts, &c.; and (29) all trials upon commitments of European British subjects shall be by Jury.

30. Directs the summoning of jurors by the Court of Session when notice has been given of where the Chief Court Sessions are to be held.

31—32. Entitles European British subjects to require that the majority of the Jury shall be Europeans or Americans, or both; and (32) directs the Jury to be 12, and requires a majority of nine for a verdict of guilty.

33. Directs that sentences of death in the Chief Court shall not require confirmation, and dispenses with explanation of reasons for sentences to other than death on offences capitally punishable.

34. Dispenses with special form for passing sentence or recording findings and sentence.

35—36. Authorizes the Judge to reserve for opinion of the Court any question of law or admissibility of evidence arising at a Criminal trial; and if no question be reserved shall forward prisoner with a warrant in pursuance of sentence, &c., or if question be reserved shall remand him to jail, &c; to await final decision, &c.; and (36) save as otherwise directed the Civil Criminal Court Procedure shall be the Code of Criminal Procedure, &c.

37—41. Makes European British subjects amenable to law for offences committed in Foreign State, &c.; and (38) may be ordered to be tried in Chief Court; and (39) the same as to Officers of Government; and (40) prescribes the form of commitment in all such cases; and (41) makes the order of Government sufficient warrant for the trial, &c.

42. Makes two Judges necessary to reverse or modify any sentence or decree of Civil or Criminal Court.

43. Empowers the Chief Court to make rules for the exercise by one or more Judges of the original or appellate jurisdiction.

44. Gives the Chief Court superintendence over all Courts subject to its appellate jurisdiction, and to call for return and make general rules, &c.

45. Transfers to Chief Court all proceedings pending in Court of Judicial Commissioner, &c.

46. Provides the manner in which differences shall be settled if only two Judges and they differ.

47—48. Directs that cases referred under this Act to the High Court shall be heard by not less than three Judges, &c.; and (48) provides that the parties to such cases may appear, plead, and act in person, or by an Advocate or Vakeel; and as to mode of returning the opinion of the High Court.

49—50. Directs the Chief Court to keep Registers, Books, Accounts, &c.; and (50) establishes equality of competency in every Judge, except as excepted by the Act or by Rules.

51. Saves Sections 10, 11, and 12 of this Act when the Pleaders', Mookhtars, and Agents' Act, 1865, shall be extended to the Punjab.

52. Names the Act, the Punjab Chief Court Act, 1865.

53. The Act to come into operation on day to be fixed by the Governor-General in Council.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases; It is enacted as follows:—

Preamble.

Interpretation of terms.

I. In this Act, unless there be something repugnant in the subject or context—

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Punjab."

"Lieutenant-Governor." "Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court." "Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar or other Officer.

"Judge," "Registrar."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Magistrate."

"Barrister." "Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section." "Section" denotes a Section of this Act.

Number. Words in the singular include the plural: words in the plural include the singular.

Gender. Words importing the masculine gender include females.

Constitution of Chief Court.

II. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and

of whom one at least shall always be a Barrister of not less than five years' standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

III. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

IV. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

Declaration to be made by persons appointed Judges of Chief Court.

V. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same:—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

Appointment of Registrar.

VI. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section.

Appointment and removal of Ministerial Officers.

VII. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

VIII. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Dismissal of Officers of Court.

IX. The Chief Court shall have, and use as occasion may require, a Seal with this inscription "The Seal of the Chief Court of the Punjab," to be made under the directions of the Lieutenant-Governor; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

Seal of Chief Court.

Processes to be sealed with Court Seal, and signed by Judge or Registrar.

X. Any person duly authorized by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

Agent for Secretary of State, suitors and Advocates, &c., of High Courts, may appear and plead.

Licensing of Pleaders.

Rules regarding their qualifications and admission.

XI. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and

Power to suspend or revoke Pleaders' licenses.

may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Fees of Pleaders to be subject to control.

XII. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees shall be allowed under the forty-fourth Section.

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

XIII. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a Settlement of land Revenue shall be in progress, and the Local Government, under Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

Extraordinary original Civil jurisdiction.

XIV. The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

XV. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to transfer suits and appeals from one subordinate Court to another.

XVI. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes, or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

Power to call for record of cases decided by subordinate Courts.

XVII. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Special appeal from Courts in Punjab to lie only to Chief Court.

XVIII. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

Regulation of proceedings in Civil suits.

XIX. In the exercise of its Civil jurisdiction, Original as well as Appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

XX. The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not

Power to try European British subjects.

been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Charge to be delivered to Registrar with commitment of European British subject.

XXI. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Chief Court to consider, and if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

XXII. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations.

XXIII. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

XXIV. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

XXV. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

Chief Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

XXVI. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may, from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Places of holding sittings.

XXVII. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or

Procedure pending directions of Chief Court as to place of trial of European British subject.

nearest to the place at which he is directed to be tried ; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

XXVIII. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

XXIX. All trials under the twentieth Section shall be by Jury.

Summoning of Jurors to serve on trials.

XXX. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors ; and, in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military Service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure ; but no Commissioned or Non-Commission-

Military men not exempt.

ed Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty, or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure, and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Jury for trial of European British subject.

XXXI. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans, or both Europeans and Americans.

Number of Jury requisite to verdict of guilty.

XXXII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

XXXIII. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

XXXIV. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded

in any particular form, shall not apply to judgments, sentences, or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment, and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to single Judge to reserve for Chief Court any question of law or evidence.

XXXV. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge, and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the District or place in which the trial was held, and, on the receipt of the warrant, such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question reserved.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences, and execution.

XXXVI. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

XXXVII. Every European British subject apprehended within the Punjab, or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

British subjects to be amenable for offences committed in foreign territory.

XXXVIII. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

Committing Magistrate to report to the Lieutenant-Governor.

XXXIX. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory, a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

XL. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall, from time to time, require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to

Form of warrant of commitment and of bail-bond.

be renewed in the usual form to appear and take his trial in such Court.

Order of Lieutenant-Governor to be full authority.

XLI. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

XLII. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

XLIII. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction, vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

XLIV. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and, from time to time, to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette, and, after being so published, shall be used and observed in the Chief Court: Provided that such general

rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall, before they are issued, have received the sanction of the Lieutenant-Governor.

Provisions as to proceedings pending in Judicial Commissioner's Court.

XLV. The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

Procedure in case of difference of opinion between Judges when Court consists of only two.

XLVI. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together, there shall be a difference of opinion between them, the following course shall be pursued, that is to say :—

1st.—On appeal on a question of fact.

(*1st.*)—If the case be heard in appeal, and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

2nd.—On appeal on a question of law.

(*2nd.*)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

3rd.—In exercise of original jurisdiction on a question of law.

(*3rd.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the

force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law, reserved under the thirty-fifth Section.

4th.—In exercise of original jurisdiction on a question of fact.

(*4th.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

Hearing and decision of referred cases.

XLVII. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta, shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

Parties may appear in person, or by Advocate or Vakeel.

XLVIII. The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

Costs, if any, consequent on the reference of a case for the opinion of the High Court, under the forty-sixth Section, shall be costs in the suit.

Registers, books, accounts, and statements to be kept and furnished by Chief Court.

XLIX. The Chief Court shall keep such registers, books and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council, or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Copies of records to be furnished.

Chief Court's functions exercisable by single Judge.

L. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court, may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

Sections 10, 11 and 12 not to be affected on extension to Punjab of Act XX of 1865.

LI. Whenever the Lieutenant-Governor of the Punjab shall, under the authority vested in him by Section forty-seven of the Pleaders, Mookhtars, and Revenue Agents' Act, 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections ten, eleven and twelve of this Act.

Short title.

LII. This Act may be cited as "The Punjab Chief Court Act, 1865."

Commencement of Act.

LIII. This Act shall come into operation on such day as the Governor-General of India in Council shall fix, by a notification published in the Gazette of India.

WARRANTS OF ATTORNEY AND COGNOVITS.

ACT No. XXIV. OF 1865.

[*Received the assent of the G. G. on the 14th July 1865.*]

Recites the expediency of giving effect to warrants of attorney and cognovits filed and executed since July 1, 1862, and of making valid judgments signed under such, and executions thereon up to passing this Act.

1. Authorizes judgment being signed under such warrants and cognovits subject to Rules, &c., respecting such securities as were in force in Supreme Court.

2. Directs that judgments on such warrants and cognovits shall be deemed decrees of the High Court and be executed accordingly.

3. Makes valid all judgments signed on such warrants and cognovits in the High Court and all executions sued out and other proceedings thereon, and prohibits proceedings against any person for anything done under such judgment or execution, which might have been done then if Supreme Court were continued.

4. Reserves to High Court same power as Supreme Court would have had to set aside or annul such warrant or cognovit, &c.

5. Makes void warrants and cognovits filed after passing of this Act.

6. Allows extension of Act to Bombay by the Local Government.

Preamble.

WHEREAS it is expedient to give effect to Warrants of Attorney to confess judgment in suits in the High Court of Judicature at Fort William in Bengal which were executed on the first day of July 1862, being the date of the establishment of the said Court, or on the date of the passing of this Act, or on any intermediate day, and to Cognovits executed or given on any of the days above mentioned by any defendant in any suit pending in the same Court: and whereas it is also expedient to render valid judgments which have been signed on such Warrants of Attorney and Cognovits respectively, and executions and subsequent proceedings which have been sued out and taken thereon; It is enacted as follows:—

Judgment may be signed on Warrants and Cognovits executed or given between 1st July 1862 and the date of passing of this Act or on either of these days.

I. Judgment may be signed in the said High Court upon every Warrant of Attorney and *Cognovit actionem* executed or given in or relating to proceedings in the same Court on the said first day of July 1862, or on the date of the passing of this Act, or on any intermediate day, in the same manner as judgments were signed in the late Supreme Court of Judicature at Fort William in Bengal upon Warrants of Attorney and Cognovits executed or given in or relating to proceedings in such Court; and all such Warrants of Attorney and Cognovits shall be subject, as nearly as circumstances permit, to all rules of Court and provisions of Acts of Parliament which were in force at the time when the said High Court was established, and to which Warrants of Attorney and Cognovits given in or relating to proceedings in the said Supreme Court were then subject.

Judgments on such Warrants or Cognovits to be deemed decrees of the High Court.

II. A judgment entered up or signed on any Warrant of Attorney or Cognovit to which this Act extends shall be deemed a decree of the said High Court, and may be executed and enforced accordingly.

III. Any judgment which has been signed on any such Warrant or Cognovit in the said High Court shall be deemed to be and always to have been as valid and effectual as if the same had been signed in the said Supreme Court upon a Warrant of Attorney or Cognovit given in that Court; and every writ of execution which has been sued out thereon, and every execution of any such writ, and all proceedings taken thereon, shall for all purposes be deemed and taken to be and always to have been as valid and effectual as if the same had been sued out of the said Supreme Court upon a judgment signed in the same Court upon a Warrant of Attorney or Cognovit given in or relating to proceedings in that Court; and no suit or other proceeding shall be commenced, prosecuted or carried on against any person for any thing done under or in pursuance of such judgment or execution which could not have been maintained if such judgment had been entered up in the said Supreme Court upon a Warrant of Attorney or Cognovit executed or given in or relating to proceedings in that Court, and the execution had been issued on such judgment.

Judgments on such Warrants or Cognovits to be as valid as if signed in the late Supreme Court.

IV. The said High Court shall have the same powers to set aside or annul any such Warrant or Cognovit and any judgment signed thereon and any execution issued upon such judgment, as the said Supreme Court exercised with respect to Warrants of Attorney or Cognovits executed or given in or relating to proceedings in that Court and to judgments entered up thereon and to executions upon such judgments.

Power to High Court to set aside or annul Warrants and Cognovits.

V. Every Warrant of Attorney and Cognovit executed or given after the passing of this Act, in or relating to proceedings in the said High Court, or in any other High Court of Judicature in British India, and every judgment signed thereon, and all executions issued upon such judgments, shall be deemed null and void.

Warrants and Cognovits executed and given after the passing of this Act to be void.

VI. This Act may be extended, *mutatis mutandis*, to the High Court of Judicature at Bombay, by an order of the Governor in Council to be published in the Local Government Gazette.

This Act may be extended to the High Court at Bombay.

CUSTOMS DUTIES ON IMPORTS AND EXPORTS.

ACT No. XXV. OF 1865.

[*Received the assent of the G. G. on the* 14*th July* 1865.]

1. Repeals Act 17, 1865.

2. In lieu of Customs Duties under Acts specified and Act 17, 1865, substitutes the duties specified in Schedules A and B. But saves from operation of this Act duties on Salt and Opium and Free Ports and the Consolidated Customs Act.

3. Gives retrospective effect to this Act from the 29th March as respects duty on export of saltpetre.

4. Entitles this Act, the Indian Customs Duties Act of 1865. Schedule A. Import Duties, Schedule B. Export Duties.

WHEREAS it is expedient to amend the Law relating to Customs duties; It is enacted as follows :—

Preamble.

Act XVII of 1865 repealed.

I. Act XVII of 1865 is repealed.

Customs duties to be levied as prescribed in the Schedules annexed to this Act.

II. In lieu of the Customs duties authorized to be charged in Act VII of 1859 (*to alter the duties of Customs on goods imported or exported by Sea*), Act XXIII of 1859 (*to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively*), Act X of 1860 (*to amend Act VII of* 1859 *to alter the duties of Customs on goods imported or exported by Sea*), Act XI of 1862 (*to amend Act X of* 1860, *to amend Act VII of* 1859), Act XXIII of 1862 (*to amend Act XI of* 1862), and Act XXIII of 1864 (*to amend the law relating to the Customs duties on goods imported by Sea*), there shall be levied and col-

lected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (*for equalizing the duties on goods imported and exported on Foreign and British bottoms, and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company*), or to affect the provisions of the Consolidated Customs' Act.

Opération of Act.

III. So far as regards the Customs duty on the export of Saltpetre, authorized to be levied by Schedule B hereunto annexed, this Act shall take effect as if it had been passed and had received the assent of the Governor-General on the 9th day of March 1865; and so far as regards the alterations made by this Act in Schedules A and B of the Customs duties which were authorized to be levied by Act XVII of 1865, this Act shall take effect as if it had been passed and had received the assent of the Governor-General on the first day of April 1865, and all duties which may have been levied from and after that date, other than those authorized to be levied according to Schedule B annexed to this Act, shall be refunded. But save as aforesaid, this Act shall take effect from the fourteenth day of July 1865.

Short title.

IV. This Act shall be cited as "The Indian Customs Duties' Act of 1865."

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India, not being a Free Port.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	,,
3.	Grain and Pulse...	,,
4.	Horses and other living Animals	,,
5.	Ice	,,
6.	Coal, Coke, Bricks, Chalk, and Stones ...	,,
7.	Cotton Wool	,,
8.	Wool	,,

9.	Flax	Free.
10.	Hemp	„
11.	Jute	„
12.	Hides and Skins, raw	„
13.	Books	„
14.	Paper	„
15.	Maps, Prints, Music, and Works of Art ...	„
16.	Seeds when imported by any Public Society for gratuitous distribution	„
17.	Agricultural Implements	„
18.	Firewood	„
19.	Machinery used exclusively for purposes of Agriculture, Navigation, Mining or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery	„

And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery, or materials forming component parts thereof, and such decision shall be final in law.

20.	Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service ...	Free.
21.	Guano and manures of all kinds	„
22.	Bottles...	„
23.	Wines and Liqueurs...	One Rupee the imperial gallon.
24.	Porter, Ale, Beer, Cider, and other similar fermented liquors	One Anna the imperial gallon.
25.	Spirits	Three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.

Provided that ten per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such Rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.

26.	Iron (which shall not be taken to include iron-mongery, cutlery, or hardware) ...	One per cent. *ad valorem.*
27.	Hops	One per cent. *ad valorem.*
28.	Tobacco, whether manufactured or not manufactured	Ten per cent. *ad valorem.*
29.	Piece Goods ...	Five per cent. *ad valorem.*
30.	Twist	Three and a half per cent. *ad valorem.*
31.	All other articles not included in the above enumeration ...	Seven and a half per cent. *ad valorem.*

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port, as defined in the Consolidated Customs' Act, from any Port in British India.

1.	Bullion and Coin...	Free.
2.	Precious Stones and Pearls	,,
3.	Horses and other living Animals ...	,,
4.	Rum	,,
5.	Spirits	,,
6.	Tobacco, and all preparations thereof ...	,,

7.	Cotton Wool	Free.
8.	Flax	,,
9.	Hemp	,,
10.	Books	,,
11.	Maps, Prints, and Works of Art ...	,,
12.	Teak Timber	,,
13.	Coal	,,
14.	Iron	,,
15.	Jute	,,
16.	Coffee	,,
17.	Tea	,,
18.	Sugar	,,
19.	Wool	,,
20.	Hides and Skins, raw	,,
21.	Raw Silk and Silk Chussum... ...	,,
22.	Grain and Pulse of all sorts.. Two Annas the Indian maund...	Of forty seers of eighty tolas to the seer.
23.	Saltpetre One Rupee the Indian maund...	Of forty seers of eighty tolas to the seer.
24.	Indigo ... Three Rupees the Indian maund...	Of forty seers of eighty tolas to the seer.
25.	Lac Dye and Shell Lac..	Four per cent. *ad valorem.*
26.	All country articles not enumerated or named above	Three per cent. *ad valorem.*

ARTICLES OF WAR FOR NATIVE ARMY.

ACT No. XXVI. OF 1865.

[*Received the assent of the G. G. on the 3rd August* 1865.]

Recites expediency of amending Act 29, 1861, Art. 83.

1. Repeals the said Article; substitutes new Article for it respecting Minor Punishments.

2. Act to be read as part of Act 29, 1861.

WHEREAS it is expedient to amend the 83rd Article of War enacted in the said Act XXIX of 1861; It is enacted as follows:—

Preamble.

I. The Article of War numbered 83 in the said Act XXIX of 1861, is hereby repealed, and in lieu thereof, the following Article of War shall be read and taken as Article 83 of the said Act XXIX of 1861:—

Repeal of Article 83.

ARTICLE 83.

The Commander-in-Chief in India shall, under the authority of the Governor-General in Council, prescribe the minor punishments to which Non-Commissioned Officers and Soldiers shall, for light offences, be liable, without the intervention of a Court Martial; and shall specify the Officer or Officers by whom such minor punishment and the extent thereof may be awarded. But no such minor punishment shall be awarded by a Court Martial.

Punishment for light offences.

II. This Act shall be read and taken as part of the said Act XXIX of 1861.

Construction.

PUNJAB CHIEF COURT OF JUDICATURE.

ACT No. XXVII. OF 1865.

[*Received the assent of the G. G. on the* 17*th August* 1865.]

Recites expediency of making provision for trial of Appeals heard before Financial Commissioner prior to passing of Act 23, 1865.

1—2. Authorizes the Government of the Punjab to invest the Financial Commissioner with the power of Judicial Commissioner for the purpose of trying generally the appeals described and all such appeals whether filed before or after May 1st, 1865.

WHEREAS it is necessary, pending the establishment of the Chief Court in the Punjab under Act XXIII of 1865, to make special provision for the decision of such appeals as previously to the passing

Preamble.

of Act XIX of 1865 were heard by the Financial Commissioner; It is enacted:—

Punjab Government may invest Financial Commissioner with powers of Judicial Commissioner for trial of appeals.

I. Until such time as Act XXIII of 1865 shall come into operation, the Government of the Punjab may invest the Financial Commissioner of the Punjab with the powers of Judicial Commissioner for the purpose of trying generally appeals in respect of suits regarding land, or the rent, revenue, or produce of land, anything in Act XIX of 1865 to the contrary notwithstanding.

Operation of Act.

II. The provisions of this Act shall apply to all such appeals as aforesaid, whether filed before or after the first of May 1865.

BOMBAY INSOLVENT TRADERS' ACT.

ACT XXVIII OF 1865.

[*Received the assent of the G. G. on the 27th September* 1865.]

Recites expediency of providing for the more speedy liquidation of Insolvent Traders in Bombay.

1. Interprets the words Trader, Court, words of Number and Gender.

2—3. Estate of Trader being or declaring himself to be unable to pay his debts, may be wound up by Trustees under order of Court; and (2—3) as to what Traders shall be deemed unable to pay their debts.

4—5. Empowers any meeting of Creditors of a Trader who is or has declared himself unable to pay his debts, to resolve that his Estate ought to be wound up under this Act, and to nominate Trustees for the purpose; and (5) gives regulations for such meeting, and directs what advertisements shall be given.

6. Directs mode of applying to Court for an Order, and the conditions on which it shall be made, subject to right of the Trader to apply to set it aside.

7—8. Upon Order being made all the Estate, &c., of Trader to vest in the Trustees appointed by the Court, and vesting effect to relate back to time of filing the Resolutions in Court, &c.; and (8) from date of vesting order, stays all proceedings and executions against Trader, except process to prevent departure or removal of effects out of the jurisdiction.

9—10. Define the powers of the Trustees.

11—14. Directs the Trustees to report certain specified misconduct of the Insolvent to the Court, which is empowered upon proof of the alleged offence to sentence the offender to rigorous or simple imprisonment; and (12) directs the Trustees, on discovery of Trader having contracted debts fraudulently, or by means of breach of trust, or false pretences, or without having any reasonable expectation of paying them, &c., to report the same to the Court, which, on proof of the alleged offence, may sentence the offender to not exceeding two years' imprisonment on the Debtors' side of the Gaol; and (13) makes void executions under decrees voluntarily suffered with intent to give a preference over other creditors, if executed within three months of the filing of the vesting order, &c.; and (14) makes void conveyances, &c., of property by Insolvent Trader within two months before the vesting order.

15. Empowers the Court to entertain any application, either of Insolvent or Creditors, respecting the disclosure, &c., of the Estate, or anything relating thereto.

16. Empowers the Court to remove Trustees, appoint others, and declare whether acts may be done by all or any of them only.

17—18. Empowers the Court on Petition of a certain proportion of the Creditors of any Insolvent who has filed his Petition, to order that his Estate be wound up under this Act; and (18) empowers Trustees under Deed of Assignment to apply to the Court for liberty to wind up under this Act.

19. Trustees under this Act may make an allowance to the Trader for maintenance with sanction of the Court.

20. Entitles the Trustees to such remuneration as the Court shall direct.

21—24. Directs the Trustees to file half-yearly accounts; and when Estate is wound up, an account showing the manner of liquidation, &c.; the filing of which account (22) shall be advertised and how; and (23) after the filing of such account, and upon notice, &c., the Court may order the discharge of the Insolvent; and (24) the effect of such order shall be to discharge the Trader and all subsequent acquired property from all debts, &c., included in the account of the Trustees.

25. Directs that any applications to the Court under this Act shall be made to a Judge in Chambers, and defines his powers.

26. Confines the operation of the Act to Estates, the admitted liabilities of which are not less than five lakhs of Rupees.

27. Act to come into operation on 1st October 1865, and remain in force till the 30th September 1867, but to remain in force after for winding up Estates already vested in Trustees.

Preamble.

WHEREAS it is expedient to provide for the more speedy liquidation of Insolvent Traders' Estates in Bombay; It is enacted as follows :—

I. The following words and expressions in this Act shall have the meanings hereby assigned to them :—

Definition of terms.

The word "Trader" shall mean any person or partnership, not being a joint stock Company, carrying on trade or mercantile operations within the local limits of the ordinary original Civil jurisdiction of the High Court of Judicature at Bombay.

"Trader."

The expression "the Court" shall mean the High Court of Judicature at Bombay in its ordinary original Civil jurisdiction.

"The Court."

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

II. Whenever any trader shall be, or shall declare himself, unable to pay his debts, it shall be lawful to wind up the estate of such trader by trustees under the control of the Court.

When traders' estates may be wound up under this Act.

III. A trader shall be deemed to be unable to pay his debts—

Trader when to be deemed unable to pay his debts.

1.—Whenever a creditor, to whom the trader is indebted in a sum exceeding five thousand Rupees then due, has duly served on the trader a demand in writing requiring the trader to pay the sum so due, and the trader has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor.

2.—Whenever satisfaction of a judgment, decree, or order of any Court in favor of any creditor in any suit or other legal proceeding cannot be obtained.

3.—Whenever the trader has committed an act of insolvency within the meaning of an Act passed in the eleventh and twelfth year of the reign of Her Majesty Queen Victoria, intituled an Act to consolidate and amend the Laws relating to Insolvent Debtors in India.

Power for creditors to resolve that estate ought to be wound up.

IV. At any meeting of creditors held after a trader is, or has declared himself, unable to pay his debts, and whether such meeting shall have been convened at the instance of the trader or of one or more of his creditors, provided that six days' notice of such meeting shall have been given by advertisement in two of the daily English newspapers and in two of the vernacular newspapers published in Bombay, it shall be lawful for a majority in number and unsecured value of the creditors present or represented at such meeting, to resolve that the estate of such trader ought to be wound up under the management of trustees, and that an application shall be made to the Court for the purpose; and upon such resolution being adopted, the meeting shall proceed to nominate three or more trustees for the liquidation of such estate, and to fix the amount or rate of salary or remuneration to be paid to such trustees, and the amount of security (if any) to be given by such trustees.

Resolutions to be reported to the Court and advertized.

V. Every such meeting shall be presided over by a Chairman elected by the meeting, and such Chairman shall determine the right of persons present to vote upon the matters aforesaid, and shall report the resolutions adopted by such meeting to the Court by filing a copy thereof under his own signature in the office of the Prothonotary of the Court within two days from the date of such resolutions being passed, and shall also cause such resolutions to be advertized without delay in the Government Gazette and in two of the daily English newspapers and two of the vernacular newspapers published in Bombay: and all necessary expenses incurred by or by the authority of the Chairman in carrying out the resolutions of the meeting shall be payable by the trustees out of the estate.

Form of application in the Court.

VI. Upon such resolutions being so filed in Court as aforesaid the Chairman or any creditor nominated in that behalf by the meeting may apply to the Court for an order to wind up the estate on the terms of such resolutions. Every such application shall be in the form of a petition and shall be verified by the petitioner in

like manner as plaints are required to be verified by Act VIII of 1859; and on hearing such petition, if the Court shall be satisfied that the resolutions were duly carried, and that their terms are reasonable and calculated to benefit the general body of the creditors under the estate, it shall confirm or modify the same as it shall deem fit, and shall make order accordingly, and in such order shall give such directions as to the management of the estate and the advertisement of such order as it shall deem expedient; Provided always that the trader or any creditor may, within six days after the making of such order, apply to the Court to set aside the same either wholly or in part, giving to the petitioner reasonable notice of such application.

Power for Court to confirm or modify resolutions and give directions.

VII. Upon the making of such order, all the moveable and immoveable estate and effects of such trader and all debts due to him and all the future estate, right, title, interest and trust of such trader in or to any moveable or immoveable property which such trader may purchase or which may revert, descend, be devised or bequeathed or come to him, and all debts growing due to such trader in respect of transactions included in the liquidation, before the Court shall have made its final order in respect to the liquidation of his estate, shall vest in the trustees appointed by the Court, and all books, papers, deeds, documents and writings in any way relating to such trader's estates and effects in his possession or under his custody or control, shall be forthwith deposited with such trustees; and such order shall be entered of record in the said Court; and such notice thereof shall be published as the Court shall direct; and such order when so made shall by virtue of this Act relate back to and take effect from the filing of the said resolutions in Court as aforesaid, and shall instantly and without any conveyance or assignment vest all the moveable and immoveable estate, effects and debts as aforesaid of such trader in the said trustees.

Order of Court to vest trader's estate on trustees.

VIII. After the date of such order all suits and legal proceedings of whatever kind in respect of such trader's civil liabilities shall be stay-

Protection to trader after vesting order.

ed, and no execution, attachment or other process against such trader's property in respect of any debt, and no process against his person in respect of any debt, other than such process by writ or warrant as may be had against a debtor about to depart out of the jurisdiction of the Court, shall be available to any creditor or claimant without leave of the Court.

Power of trustees.

IX. The trustees shall have power by virtue of this Act in their own name to do the following things:—

To bring or defend any action suit or prosecution or other legal proceeding, Civil or Criminal, on behalf of such trader; and on like behalf to claim, prove and draw dividends under any bankruptcy, insolvency or liquidation by trustees under this Act.

To carry on the business of such trader so far as may be necessary for the beneficial liquidation of the same.

To sell the property, moveable or immoveable, effects and things in action of such trader by public auction or private contract, with power if they think fit to transfer the whole thereof to any person or Company, or to sell the same in parcels.

To execute on behalf of such trader all deeds, receipts and other documents they may think necessary.

To refer disputes to arbitration and compromise any debts or claims.

To draw, accept, make and endorse any Hoondee, Bill of Exchange or Promissory Note on behalf of such trader, and also to raise upon the security of the assets of such trader's estate from time to time any sum or sums of money, whenever the same shall be necessary for the purposes of this Act.

To do and execute all such other things as may be necessary for winding up the affairs and distributing the assets of such trader.

To apply to the Court from time to time as occasion may require for its assistance in carrying out the powers conferred upon the trustees by this Act; Provided always that such

trader or any creditor shall be at liberty to apply to the Court to set aside or restrain any act done or about to be done by the said trustees under this Act, and the Court shall make such order upon such application with respect to costs and otherwise as it shall deem fit; and provided also that nothing herein contained shall discharge the said trustees or any of them from liability to account to the said Court for acts done by them in the liquidation of the estate of the trader under this Act.

Power to trustees to examine trader, &c., on oath.

X. The trustees shall have power to summon before them and to examine upon oath or otherwise such trader and any of his assistants, clerks or servants whom the trustees may deem capable of giving any information material to the full disclosure of the trader's transactions, books and affairs, or to the winding up of the same; and the provisions of the Acts in force for the time being for procuring the attendance of witnesses, and for the examination and punishment of witnesses in suits before Civil Courts, shall be of equal force and effect in respect of any person summoned to appear as a witness under the provisions of this Act.

Penalty on trader fraudulently concealing effects or falsifying or destroying books, &c.

XI. If in the course of their investigation it shall appear to the trustees that such trader has fraudulently, with the intent to conceal the state of his affairs or to defeat the objects of this Act, destroyed or otherwise wilfully prevented or purposely withheld the production of any book, paper or writing relating to such of his affairs as are subject to investigation under this Act, or kept or caused to be kept false books, or made false entries in, or withheld entries from, or wilfully altered or falsified any such book, paper or writing, or that such trader has fraudulently, with intent of diminishing the sum to be divided among his creditors or of giving an undue preference to any of the said creditors, discharged or concealed any debt due to or from the said trader or made away with, charged, mortgaged or concealed any part of his property of what kind soever, the trustees shall forthwith report the same to the Court

which shall enquire into the same in like manner and with like powers as a Commissioner of the Court for the Relief of Insolvent Debtors in Bombay; and upon such offence being proved against such trader to the satisfaction of the Court, it shall be lawful for the Court to adjudge that the offender shall be punished with rigorous or simple imprisonment, as the Court shall direct, for a term which may extend to two years, and by warrant under the seal of the Court to order the offender to be arrested and committed to prison and there to be detained accordingly.

Penalty on trader fraudulently or dishonestly contracting debt.

XII. If in the course of their investigation, it shall appear to the trustees that such trader has contracted any of his debts fraudulently or by means of breach of trust or by means of false pretences or without having any reasonable or probable expectation at the time when contracted of paying the same, or shall have fraudulently or by means of false pretences obtained the forbearance of any of his debts by any of his creditors, or if it shall appear that such trader's whole debts so greatly exceeded his means of providing for the payment thereof during the time when the same were in the course of being contracted (reference being had to his actual and expected property) as to show gross misconduct in contracting the same, the trustees shall forthwith report the same to the Court, which shall thereupon enquire into the same in like manner and with like powers as a Commissioner of the Court for the Relief of Insolvent Debtors in Bombay; and upon such offence being proved against such trader to the satisfaction of the Court, it shall be lawful for the Court to adjudge that the offender be committed to and detained in the gaol at Bombay, on the debtors' side thereof, for such term not exceeding two years as the Court shall direct.

Executions upon certain decrees within three months of first order to be void.

XIII. If upon any decree voluntarily suffered by such trader, being insolvent to any person with intent to give such person a preference over other creditors of such trader any

attachment or execution is issued against such trader by virtue whereof the estate and the effects of such trader or any of them are attached or taken in execution at any time within three months next before the filing of such order as herein mentioned, such attachment or execution shall be void in favor of the trustees appointed by virtue of this Act as against the attaching or execution creditor, whether the same has been completely executed or not, and it shall be lawful for such trustees to recover back from such creditor the estate or effects of such trader so attached or taken in execution or the proceeds thereof as the case may be; Provided always that such creditor shall, if the attachment or execution would have been valid but for this provision, be entitled to retain or levy, as the case may be, his costs of suit and of such attachment or execution.

Fraudulent conveyances made by trader within two months before first order to be void.

XIV. If any trader whose estate shall be vested in trustees under the provisions of this Act shall, when in insolvent circumstances, and within two months before the filing of such order as herein first mentioned, voluntarily convey, assign, transfer, charge or make over any property moveable, or immoveable or any security for money, bond, bill, note, money, goods or effects whatsoever to any person or upon any trust, every such conveyance, assignment, transfer, charge or making over shall be deemed and is hereby declared to be fraudulent and void as against such trustees.

Power of Court to entertain applications of trader or any creditor respecting trader's estate.

XV. The Court shall have jurisdiction at any time during the liquidation of any trader's estate under this Act, to entertain any application of the said trader or of any person claiming to be a creditor, respecting the disclosure, distribution, inspection, conduct, management or liquidation of such trader's estate or affairs, or any act or thing relating thereto, or generally for the decision of any dispute or question that may arise between the trustees and such trader, or any creditor, debtor or claimant.

XVI. The Court shall have power to remove any trustees appointed under this Act, and to appoint others in their stead, and to fill up any vacancy occasioned by the death, insolvency, resignation or departure from India of any trustee, or by any other sufficient cause; and the Court shall upon application to it in that behalf declare whether any act hereby required or authorized to be done by the trustees may be done by all or one or more of such trustees.

Power of Court to remove and appoint trustees.

XVII. It shall be lawful for the Court for the Relief of Insolvent Debtors at Bombay, upon application by or on behalf of a majority in number and unsecured value of the creditors of any insolvent debtor who has filed his petition in that Court, to order that the estate of such insolvent shall be wound up by trustees under the provisions of this Act, upon such terms as to costs and remuneration to the Official Assignee, and with such directions as shall appear to be necessary and just.

Power of Insolvent Court to order insolvent estates to be wound up under this Act.

XVIII. It shall be lawful in any case in which the estate of any trader has been vested in trustees under a deed of assignment before the passing of this Act, for such trustees to apply to the Court for liberty to wind up such estate under the provisions of this Act.

Liberty to trustees under deed of assignment to apply that estate may be wound up under this Act.

XIX. In any case in which the estate of a trader shall be vested in trustees under the provisions of this Act, it shall be lawful for the trustees, with the sanction of the Court, to make to such trader out of the funds in their hands a reasonable monthly allowance for maintenance.

Liberty to trustees to allow maintenance to trader.

XX. There shall be paid to the trustees such salary or remuneration by way of percentage or otherwise as the Court shall direct; and all costs, charges and expenses properly incurred in winding up the estate, including the remuneration of the trustees and the

Remuneration of trustees.

maintenance of the trader, shall be payable out of the assets of the trader in priority to all other claims.

Trustees to file accounts half-yearly.

XXI. During the liquidation of the estate the trustees shall file half-yearly accounts of the progress of such liquidation in the office of the Prothonotary of the Court; and as soon as the affairs of the trader are fully liquidated and the estate distributed, the trustees shall make up an account showing the manner in which such liquidation has been effected and the property of the trader disposed of, and such account, with the vouchers thereof, shall be filed in Court. All accounts so filed shall be open at all reasonable times to the inspection of creditors, and copies thereof shall be granted on payment of such fees as may from time to time be fixed by the Court.

Estate when to be deemed fully wound up.

XXII. The trustees shall give notice of the filing of such final account with its vouchers by advertisement of even date in the Government Gazette and in two of the daily English newspapers and in two of the vernacular newspapers published in Bombay; and if no order to the contrary shall be made by the Court within three months after the date of the publication of such advertisement, the said estate shall be deemed to have been fully liquidated and wound up, and the trustees shall thereupon be deemed to be fully released and discharged from all liability in respect of the said estate and the liquidation thereof.

Trustees may grant certificate to trader for order of discharge.

XXIII. After the filing of such final account as aforesaid and upon the said trustees certifying to the Court under their hands that the said trader has assigned, conveyed or made over to them all his property, effects and securities of every nature and kind whatsoever, and all books of account, accounts, vouchers, papers and documents relating to his estate, and also that he has given all reasonable assistance to the trustees in and towards realizing and winding up his estate, it shall be lawful for the Court upon the application of such trader, and upon such notice as it shall direct, to grant to such trader an order of

discharge; Provided always that if such certificate as aforesaid shall have been refused to any trader by the trustees, such trader may nevertheless apply to the Court for such order of discharge and the Court shall have power, upon such notice to the trustees as it shall direct, to grant such trader an order of discharge if it shall think fit.

Effect of order of discharge.

XXIV. Such order of discharge shall operate to discharge the trader and all property and effects acquired by him subsequent to the filing of the order herein first mentioned, from all debts, claims or demands in respect of the transactions included in the account filed by the trustees, and no suit shall thereafter be maintainable against the said trader, nor shall such after-acquired property and effects be liable to be attached or taken in execution, in or under the order of any Court in British India, in respect of such transactions.

Applications to be made to Judge in Chambers.

XXV. Any application directed by this Act to be made to the Court shall be made to a Judge in Chambers, who shall have power to make any order necessary to be made under this Act, or to refer such application to a full Court; and such Court or Judge is hereby empowered to make any order in respect of the premises, which could be made by a Commissioner of the Court for the Relief of Insolvent Debtors under 11 and 12 Vic., cap. 21.

Limitation of Act.

XXVI. The operation of this Act shall be limited to estates in which the admitted liabilities are not less than five lakhs of Rupees.

Commencement of Act.

XXVII. This Act shall come into operation on the first day of October 1865 and shall remain in force until the thirtieth day of September 1867. Provided that as to such estates (if any) as shall, on or before such day, have been brought under the operation of this Act, and of which the winding up under its provisions shall not have been completed, this Act shall remain in force until such estates shall have been wound up as aforesaid.

PLEADERS, MOOKHTARS, AND REVENUE AGENTS.

ACT XXIX OF 1865.

[*Received the assent of the G. G. on the* 22*nd December* 1865.]

Recites expediency of amending Act 20, 1865.

1. Gives 3 months' further time for admission and enrolment to Pleaders, &c., practising when Act comes into operation; and (2) saves such from operation of enactments respecting stamps; and (3) makes same provision as to Revenue Agents.

4. Authorizes High Court to admit admitted Pleaders to practise in Small Cause Courts.

5. Interpretation Clause; and (6) directs that the Act shall be read as part of Act 20, 1865.

Preamble.

WHEREAS it is expedient to amend the Pleaders, Mookhtars and Revenue Agents' Act, 1865 (Act No. XX of 1865); It is enacted as follows :—

Persons qualified as Pleaders or Mookhtars when Act No. XX of 1865 shall come into operation may continue to practise for six months as if that Act had not been passed.

I. Notwithstanding anything contained in the Pleaders, Mookhtars and Revenue Agents' Act, 1865, any person who at the time when such Act shall come into operation shall be duly qualified to practise as a Pleader or Mookhtar in any Court in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as a Pleader or Mookhtar, as the case may be, in such Court for the period of six calendar months from the time when the said Act shall come into operation in that part of India, without being admitted or enrolled, or having previously obtained a stamped certificate in pursuance of the said Act, in the same manner as if such Act had not been passed.

Fees now payable by any person in respect of his adversary's Pleader to be payable during the six months as if Act XX of 1865 had not been passed.

II. All fees which are now by law payable upon proceedings in any Court by any party in respect of the fees of his adversary's Pleader shall continue to be payable, and may be allowed during the said period of six calendar months as if the said Act had not been passed.

III. Notwithstanding anything contained in the said Act, any person who all the time when such Act shall come into operation shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, in any part of the territories in which the said Act shall take effect, shall and lawfully may continue to practise as an Agent before such Board or in such Office, as the case may be, for the period of six calendar months from the time when the said Act shall come into operation in that part of India without being admitted or enrolled, or having previously obtained a stamped certificate in pursuance of the said Act, in the same manner as if such Act had not been passed.

Persons practising as Revenue Agents when Act No. XX of 1865 shall come into operation, may continue to practise for six months as if that Act had not been passed.

IV. Whenever the High Court shall cause a certificate, whether original or renewed, authorizing the holder to practise as a Pleader in the Courts mentioned in Clause (*c*) of Section 10 of the said Act, to be issued to a person entitled, under the proviso in Section 5 of the same Act, to be admitted and enrolled as a Pleader in the High Court without passing any examination, the Court may in such certificate authorize the holder to practise as a Pleader in Small Cause Courts in addition to the Courts mentioned in the said Clause (*c*), and he shall thereupon be entitled to practise as last aforesaid, subject to the conditions contained in the said Act as to the duration of and stamp on a certificate authorizing the holder to practise as a Pleader in the Courts mentioned in the said Clause (*c*).

High Court may permit person entitled, without examination, to a certificate authorizing him to practise as a Pleader in the Courts mentioned in Act No. XX of 1865, Section 10, Clause (*c*), to practise in Small Cause Courts.

V. In the construction of this Act and of the said Act No. XX of 1865, the expression 'Office subordinate to such Board,' and in the construction of the latter Act, the expression 'Revenue Office,' shall be taken to apply to Collectors and Deputy Collectors

Interpretation Clause.

trying suits under Act No. X of 1859 *(to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal).*

This Act to be taken as part of Act No XX of 1865.

VI. This Act shall be read with and taken as part of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

MADRAS IRRIGATION AND CANAL COMPANY.

ACT XXX OF 1865.

[*Received the assent of the G. G. on the 22nd December* 1865.]

1. Entitles the Madras Irrigation and Canal Company to charge at not exceeding 1 Re. for 400 cubic feet of water.

2. Act to come into force 1st January 1866.

Preamble.

WHEREAS, by an Indenture made on the third day of June one thousand eight hundred and sixty-three, between the Secretary of State in Council of the one part, and the Madras Irrigation and Canal Company of the other part, it was amongst other things provided that the Company should be authorized and empowered to charge such rates for the supply of water generally, except the supply for the purposes of Irrigation, as should not exceed the rates which should "be defined by an Act of Parliament of the Indian Legislature," and should not in any case charge any higher rates whatsoever: And whereas it is expedient to fix the rates which the said Company may charge for the said purpose; It is enacted as follows:—

Rate which Company may charge for water supplied for purposes other than Irrigation.

I. The Madras Irrigation and Canal Company may charge for the supply of water generally, except the supply for the purposes of Irrigation, a rate not exceeding the sum of one Rupee for four hundred cubic yards of water.

Commencement of Act.

II. This Act shall come into force on the first day of January 1866.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				MURSHIDABAD DISTRICT—*concld.*		
				Ferry at Shakerghat	2034, 17 10 1900	Vol. III, p. 987.
				Ferry at Magalmari ...	553, 7 2 1903	Ditto, p. 993.
				Ferry at Narikelbari	648, 20 5 1903	Ditto.
				Ferry at Kalitolah ...	1595, 5 7 1904	Ditto, p. 996.
				Ferry at Sukdebati ...	26 1 1906	Ditto, p. 1003.
				Ferry at Alampur ...	22, 6 6 1916	Ditto, p. 1028.
				Ferry at Tarapur ...	45, 9 7 1916	Ditto, p. 1029.
				Ferry on the 36th mile of the Jiaganj-Jangipur road.	44, 9 10 1918	Ditto, p. 1114.
				Ferry on the 8th mile of Bhaduriapara-Damadipara road No. 33.	62, 12 12 1918	Ditto, p. 1116.
				Ferry over Akhira River on the Sonatikri road.	48, 1 8 1919	Ditto, p. 1034.
				Ferry near Hatpara Bathan in Hijole.	1, 9 4 1920	Ditto.
				Ferry over Gambhira River near Balaipur village.	26, 20 7 1920	Ditto, p. 1035.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				MYMENSINGH DISTRICT—		
				Twenty-three ferries	4 5 1888	Vol. III, p. 1188.
				Ten ,, ...	27 7 1891	Ditto, p. 1195.
				Eight ,, ...	1749, 12 5 1893	Ditto, p. 1204.
				Sixteen ,, ...	5268, 6 11 1894	Ditto, p. 971.
				Twenty-three ,, ...	5270, 6 11 1894	Ditto, p. 1045.
				Sixty-one ,, ...	1651, 22 4 1895	Ditto, p. 973.
				Eight ,, ...	379, 30 1 1896	Ditto, p. 977.
				Eight ferries and one subsidiary ferry.	28 5 1912	Ditto, p. 1091.
				Dhankuria over the river Bauni on Kawakhali to Bauni Local Board road. Monapara over the river Bethai on Nilaganje to Kawakhali Local Board road. Sachail over the river Suti on above road.	6606, 23 9 1922	Ditto, p. 1136.
				Ferry at Hosseinpur ...	4 2 1888	Ditto, p. 1181.

No 19 An Act to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort St. George in Council 203
20 The Indian Registration Act 1866 204
21. The Native Converts' Marriage Dissolution Act, 1866 247
22 An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts, and the Cantonments of Secunderabad, Trimungerry, and Aurungabad 259
23 An Act to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay 260
24 The High Court (North-Western Provinces) Act, 1866 261
25 An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras, and Bombay, and in the Supreme Court of the Straits' Settlements, and the proceeds of certain estates in the charge of the Administrator of Bengal 269
26. The Oudh sub-Settlement Act 272
27. The Indian Trustee Act 278
28. The Trustees' and Mortgagees' Power's Act, 1866 302
29 Act to enlarge the jurisdiction of the Courts of Requests in the Settlements, of Prince of Wales' Island, Singapore and Malacca 322
30. The Straits' Excise Act of 1866 338

INDEX.

ACCEPTANCE.—*See Bill of Exchange, &c.*

ACCOUNTS AND AUDIT.—(Joint Stock Companies.)
Rules respecting, 136, *et seq.*

ACTS OF THE LEGISLATIVE COUNCIL OF INDIA, *amended, extended, repealed, supplemented.*

1840 Act 23 (Execution of Process) extended to Straits Settlements, 32; and modified, *ib.*
1841 „ 24, s. 3 (Mortgagees and Trustees) repealed, 280.
1844 „ 6, s. 43 (Madras Salt) repealed, 203.
1850 „ 43 (Joint Stock Companies) repealed, 155.
1855 „ 4 (Assam Company) repealed, 156.
1857 „ 19 (Joint Stock Companies) repealed, 155.
1860 „ 7 (Joint Stock Companies) repealed, 155.
„ „ 21, s. 1 and 18, (Registration of Literary Societies) construed, 123.
„ „ 31 (Arms Act) supplemented, 4 *et seq*; cl. 2 s. 5 repealed, 31; sections 26, 28, 29, and 30 modified, *ib.*; and last clause of s. 17, altered, *ib.*
1861 „ 19, s. 9 (Government Paper Currency) amended, 1, *et seq.*
„ „ 25 (Code of Criminal Procedure) Schedule 7 of, as respects sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 392, 393, 448, and 451, amended, 34.
1863 „ 21, (Recorder's Courts, Burmah) supplemented, 4, *et seq.*
1864 „ 16, (Registration of Assurances) repealed, 212.
1865 „ 2 (Rural Police, N. W. Provinces) amended, 2.
„ „ 6 (Arms Act) repealed, 31.
„ „ 9 (Registration of Assurances) repealed, 212.
„ „ 25 (Export Duties) Schedule of, altered, 202.
„ „ „ (Indian Marriage Act) extended, 259.
„ „ „ (Pleaders and Mooktears Act) extended to Sudder N. W. P. 33.

ALIMONY
May be awarded, in suit for dissolution of marriage of native convert. 255; and may be granted pending suit, *ib.*

APPEALS.—*(Chief Court of Punjab.)*
Regulated, 22.

APPOINTMENT.—*See Powers of Appointment.*

ARBITRATION.—(Joint Stock Companies.)
Matters in dispute may be referred, 72; and how, *ib.*
Agreement of reference may be altered, &c. when, *ib.*; is revoked how, *ib.*; by consent, and generally not otherwise, 74.
Reference may be to a single arbitrator, by agreement, 72; and how otherwise, *ib. et. seq.*
Arbitrators how to be appointed, if by Company, *ib.*; and if by Government, *ib.*; and how in case of death, &c., *ib.*
Umpire may be appointed by arbitrators, and when, 74; and with what effect, *ib.*
Procedure in, to be what, 75.
Award may be what, *ib.*; and when must be ready, 76; and shall not be set aside for any irregularity or informality, *ib.*

ARBITRATION.—(Continued.)
Courts empowered to enforce agreements for, &c. *ib.*
Costs of, to be in discretion of the arbitrator, *ib.*; unless agreement otherwise, *ib.*; and if not awarded or agreed, to be borne by parties in equal shares, 77.
ARBITRATOR—(Joint Stock Companies.)—*See Arbitration.*
ASIATIC SOCIETY
To be accommodated in Building of Indian Museum, 196; but to retain its exclusive right of property in its Library, &c. 200.
ASSAM COMPANY.
Local Acts relating to, repealed, 155.
Continued for two months after 12th March 1866, 156.
ASSESSMENT TO RURAL POLICE (N. W. Provinces.)—*See Rural Police.*
ASSIGNMENT OF MOVEABLES AND TERMS FOR YEARS. *(English Law.)*
May be made to a person himself and another person, 314.
ASSOCIATION IN PARTNERSHIP.—*See Joint Stock Company.*
By what means incorporated, 48.
Memorandum of to contain what, whose liability is limited by shares, 48, *et seq.*; and what, when limited to stated amount, 49; and when unlimited, *ib.*; to be stamped, 50; may be altered in what cases, *ib.*; and in what manner, *ib.*; may in some cases and what, and must in other cases be accompanied by Articles of Association, 51; form of, of Company limited by shares, 142; or, limited by Guarantee, 143; articles to accompany, 143.
May change its name under what conditions, 51; new name must be registered, *ib.*
Articles of, to state what, 51; to be printed, 52; regulations in Table A. when to operate as Articles, 51.
Not to assume name of already registered Company, 54; and name of may be changed how, *ib.*
Shares of, to be moveable property, 54; and to be numbered, *ib.*; and be transferable by personal representatives, 55; and to be registered, *ib.*
Contracts of, how they be made, 62.
Mortgages of, to be registered, 63.
Deeds by, how they may be executed out of India, 68.
If reduced to less than seven members, limited liability ceases after six months, 64.
ASSURANCES.—*See Registration of Assurances.*
AUDIT.—(Joint Stock Companies.)—*See Accounts.*
AUTHORITIES TO ADOPT.—*See Wills and Authorities to Adopt*
AWARD.—(Joint Stock Companies.)—*See Arbitration.*
BANKING PARTNERSHIPS.
Of more than 10 persons to be registered as Company, except in specified cases, 47.
BILLS OF EXCHANGE, HUNDIS, PROMISSORY NOTES.
Act relating to, 24; providing a summary remedy on, 25, *et seq*; giving form of summons, *ib.*; and taking away right of defence, except by leave of the Court, *ib.*; without which, judgment to go by default, &c., *ib.*; but costs of suing on, to be what, *ib.*; costs of protest may be recovered, 29; if lost, may be sued upon, under specified conditions.
Special remedy given by this Act to apply only to Bills, &c., not over-due more than six months, 26; and only to suits in High Courts, 26; unless extended to others by Government, 27.
Acceptance of, must be in writing on the Bill, 28; to be deemed an Inland Bill, if drawn and made payable in B. India, 28.
BRITISH SUBJECTS.—*See European British Subjects.*
BURMAH.—*See Recorder's Courts.*—(Burmah.)
CANAL OFFICE —(N. W. Provinces and Punjab.) - *See Water-courses.*

CHARITY TRUSTEES.—*See Trustees of Charity.*

CHIEF COURT OF THE PUNJAB.

Constitution of, 7, *et. seq.*; rank of Judges of, 10; Judges to hold their offices during pleasure, *ib.*; and to take oath of office, 11; may appoint Registrar, *ib.*; and necessary Clerks, *ib.*; who shall be liable to dismissal by order of Court, *ib.*

To have a seal, with specified inscription, 12.

What persons, suitors, pleaders, and advocates may appear, 12.

May revoke license to pleader, *ib.*

May regulate fees payable to pleaders, but not fees of advocates of a High Court, *ib.*

To be the highest Court of Appeal from the Civil and Criminal Courts, &c. 12, *et seq.*

May remove causes from subordinate Courts for trial in Chief Court, 13; but not from Small Cause Courts, *ib*; and from Cantonment Magistrate, *ib.*; and may call for record from Small Cause Court, *ib.*

Law of, to be same as the law before the institution of the Court, 14.

Its power to try European British subjects, 14; and procedure in their cases, *ib. et. seq.*; and as to charge against, 15; may order unsustainable charge not to be proceeded with; *ib.*—*See European British Subjects.*

Sittings of, to be held when, 16.

Sentences of, not under regulations of specified Sections of Code of C. P. 18.

Judge of, in exercise of Criminal jurisdiction, may reserve question of law, &c. for opinion of full Court, 18, *et seq.*

Procedure of, save as otherwise specially provided, to be according to Code of C. P., 19.

Competent to try European British subject for offence in foreign territory, 19; and what procedure to be followed in such case, *ib. et seq*

Sentences of, do not require information when, 18.

Its power as to decrees and sentences of subordinate Courts, 20.

To have superintendence over all subordinate Courts, 21.

To consist of how many Judges, *ib.*

Appeals to, regulations respecting, 22.

May refer case to High Court, Calcutta when, *ib.*; and to be heard there by not less than three Judges, *ib.*

To make general rules on specified matters, 2.

To keep registers, &c. 23.

CODE OF CRIMINAL PROCEDURE.

Column 7 of Schedule 9 amended as respects specified Sections, 33.

CONTRIBUTORIES.—(Joint Stock Company.)

Who are, 77; and the nature of their liability, *ib.*; and representatives of, liable, in case of their death, 78; and in case of Insolvency, their estate is liable, *ib.*

COURTS OF REQUESTS.—(Straits Settlements.)

To what amount in value their jurisdictions shall extend, 324; and as to the remuneration &c. of Bailiffs, 325; and as to issue of distress warrants, *ib.*; and their protections, 331; and liabilities, 332; and seizure of goods, 326; and sale, *ib.*; and costs of distress, 327; and as to limit of distress, *ib.*; but not to apply to rent due to Government, 328.

To have a seal, 328.

Witnesses in, how to be examined, *ib.*; and how summoned, &c *ib.*

May issue warrant to arrest, 329.

May enforce payment of fines, *ib.*; and issue execution against and other person or property of debtor, 329; and how to be executed against person, 330; but no person shall be imprisoned twice for same debt, 331; and if against goods, what goods are exempt, *ib.*; order of may be for payment by instalments, 330.

PART VI.

Bengal Acts.				Rules and Orders		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				MYMENSINGH DISTRICT—*contd.*		
				Baigunbari-Brahmaputtra ferry.	13 12 1905	Vol. III, p. 1002.
				Baktarmara ferry ...	9 3 1915	Ditto, p 1100.
				Balia " ...	3125, 3 12 1902	Ditto, p. 1062.
				Baranga " ...	2854, 17 8 1904	Ditto, p. 998.
				Barialmari " ...	30 3 1914	Ditto, p. 1021.
				Bhingula " ...	1 10 1912	Ditto, p. 1093.
				Boser Bazar " ...	15 11 1910	Ditto, p 1015.
				Chandrakona " ...	5 9 1905	Ditto, p. 1071.
				Chuniapota " ...	30 3 1914	Ditto, p. 1097.
				Dholapura " ...	8 5 1888	Ditto, p. 1188.
				Dhuldia " ...	4 12 1891	Ditto, p. 1197.
				Doshalia " ...	4684, 26 10 1915	Ditto, p. 1103.
				Dulla " ...	3859, 20 4 1917	Ditto, p. 1107.
				Dursa " ...	15 9 1905	Ditto, p. 1071.
				Ellenga " ...	14 3 1892	Ditto, p. 1198.

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Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*):—		
				MYMENSINGH DISTRICT—*contd*		
				Ganak Khali „ ...	9 3 1915	Vol. III, p. 1100.
				Gangair „ ...	6 3 1914	Ditto, p. 1020.
				Gaziar Char „ ...	2 4 1910	Ditto, p. 1013.
				Gangina „ ...	15 9 1905	Ditto, p. 1071.
				Goge „ ...	730, 17 10 1895	Ditto, p. 1214.
				Goyhatta „ ...	15 9 1905	Ditto, p. 1071.
				Gazirtak „ ...	9 3 1915	Ditto, p. 1100.
				Ghosekhali „ ...	4684, 26 10 1915	Ditto, p. 1103.
				Goalorchar „ ...	30 3 1914	Ditto, p. 1097.
				Golabari „ ...	1859, 20 4 1917	Ditto, p. 1107.
				Gopalganj „ ...	6 3 1914	Ditto, p. 1020.
				Gunatia „ ...	6 3 1914	Ditto.
				Hashuari „ ...	5 11 1910	Ditto, p. 1015.
				Inaitpur „ ...	14 3 1892	Ditto, p. 1198.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				MYMENSINGH DISTRICT *contd.*		
				Jallabad ferry ...	1265, 19 2 1923	Calcutta Gazette— 1923, Pt. I, p. 425.
				Jocachar „ ...	6 3 1914	Vol. III, p. 1020.
				Jocachar Khal „ ...		
				Joydhorkhali „ ...	1177, 20 3 1896	Ditto, p. 978.
				Kalihar „ ...	3125, 3 12 1902	Ditto, p. 1062.
				Kalikaprasad „ ...	9 3 1915	Ditto, p. 1100.
				Kalipur „ ...	1859, 20 4 1917	Ditto, p. 1107.
				Karimganj „ ...	1177, 20 3 1896	Ditto, p. 978.
				Kazla „ ...	1265, 19 3 1923	Calcutta Gazette— 1923, Pt. I, p. 425.
				Kendua Doail „ ...	1859, 20 4 1917	Vol. III, p. 1107.
				Khaskatuli „ ...	16 9 1912	Ditto, p. 1093.
				Kodalkati „ ...	9 3 1915	Ditto, p. 1100.

PART VI.

Bengal Acts				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				MYMENSINGH DISTRICT —*contd.*		
				Kolumda ferry ...	8 5 1888	Vol. III, p. 1188.
				Koogdahara „ ...		
				Koyra „ ...	1 10 1912	Ditto, p. 1093.
				Lakhiganj „ ...	14 3 1892	Ditto, p. 1198.
				Langragunge „ ...	6 8 1912	Ditto, p. 1017.
				Magura „ ...	4 12 1891	Ditto, p. 1197.
				Manikkhali „ ...		
				Manohara „ ...	14 3 1892	Ditto, p. 1198.
				Miakhali „ ...	19 6 1907	Ditto, p. 1076.
				Mirzapur „ ...	8 5 1888	Ditto, p. 1188.
				Nagla „ ...	15 9 1905	Ditto, p. 1071.
				Naganandi „ ...		
				Nakasim ferry with Morajani Khal branch ferry.	6 3 1914	Ditto, p. 1096.
				Nandina ferry ...	30 3 1914	Ditto, p. 1021.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				MYMENSINGH DISTRICT —*contd.*		
				Nilganj ferry ...	4 12 1891	Vol. III, p. 1197.
				Nokhla ,, ...		
				Pagla Sutia ,, ...	2 4 1910	Ditto, p. 1013.
				Pakulla ,, ...	15 9 1905	Ditto, p. 1071.
				Pakulla ,, ...	6 3 1914	Ditto, p. 1096.
				Palima ,, ...		
				Pathanda ,, ...	1 9 1908	Ditto, p. 1079.
				Phulbari ,, ...	8 5 1888	Ditto, p. 1188.
				Panchtikri ,, ...	26 5 1892 144,	Ditto, p. 1201.
				Pyarabhanga ,, ...	4 12 1891	Ditto, p. 1197.
				Rasulpur ,, ...	20 4 1917 1859	Ditto. p. 1107.
				Rupshi ,, ...	2 4 1910	Ditto, p. 1013.
				Sarchapur ,, ...	15 9 1905	Ditto, p. 1071.
				Shakhnai ,, ...	2 4 1910	Ditto, p. 1013.
				Shakhna ,, ...	19 3 1923 1265,	Calcutta Gazette—1923, Pt. I, p. 425.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				MYMENSINGH DISTRICT —*concld.*		
				Shoya Khal ferry	6 3 1914	Vol. III, p. 1096.
				Shealganj „ ...	1177, 20 3 1896	Ditto, p. 978.
				Singjani Khal „ ...	1196, 17 3 1921	Ditto, p. 1126.
				Soorooch „ ...	8 5 1888	Ditto, p. 1188.
				Suruj Khal „ ...	1196, 17 3 1921	Ditto, p. 1126.
				Tarailbazar ghat „ ...	1265, 19 3 1923	Calcutta Gazette—1923, Pt. I, p. 425.
				Tarakandi „ ...	1177, 20 3 1896	Vol. III, p. 978.
				Tenachira „ ... / Toopkerchar „ ...	30 3 1914	Ditto, p. 1097.
				Trimohan Khal „ ...	6 3 1914	Ditto, p. 1096.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				NADIA DISTRICT—		
				Bagadanga ferry ...	19 3 1887	Vol. III, p. 1177
				Amendment of the notification of 19th March, 1887, noted above.	21 12 1888	Ditto, p. 1190.
				Bazitpur ferry ...	6397, 9 11 1898	Ditto, p. 984.
				Bhaluka „ ...	29 8 1905	Ditto, p. 1000.
				Bharamara „ ...	1 8 1905	Ditto.
				Bhatpara „ ...	17, 13 6 1923	Calcutta Gazette—1923, Pt. I, p. 834.
				Dakda Kupda „ ...	19 3 1887	Vol. III, p. 1177.
				Dharamdaha „ ...	10 8 1905	Ditto, p. 1000.
				Golaidari „ ...	44, 12 11 1921	Ditto, p. 962.
				Gotepara „ ...	889, 11 6 1902	Ditto, p. 989.
				Janipur-Khoksa „	29 8 1905	Ditto, p. 1000.
					3 11 1905	Ditto, p. 1001.
				Monakhali „ ...		
				Nonagunge „ ...	9 3 1887	Ditto, p. 1177.
				Panighatta „ ...		
				Panti „ ...	29 8 1905	Ditto, p. 1000.
				Peerpore „ ...	19 3 1887	Ditto, p. 1177.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	I	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*):—		
				NADIA DISTRICT—*contd.*		
				Perozepur ferry ... Plassipara „ ... Salgomudia „ ...	29 8 1905	Vol. III, p. 1000.
				Soobulpur „ ...	19 3 1887	Ditto, p. 1177.
				Ferry over the river Bhairab on the 1st mile of the Meherpur-Kaliganj road.	3367, 11 12 1902	Ditto, p. 992.
				Ferry at Khalboalia ...	906, 13 2 1904	Ditto, p. 1067.
				Ferry at Char Kururia	1552, 3 7 1904	Ditto, p. 1068.
				Ferries at Bharara and Dharampur.	2443, 25 7 1904	Ditto, p. 997.
				Ferry over the Dukategari Khal on the Krishnagar-Kishanganj road.	6 8 1906	Ditto, p. 1073.
				Ferry over the Muragacha Khal on the Kushtia to Simla road.	10 4 1908	Ditto, p. 1078.
				Ferry over the several gaps at Kulgachi.	18 10 1911	Ditto, p. 1089.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	1	Ferries ...	35	Directing that the following public ferries in the following districts shall be managed by the District Boards of those districts, and ordering the proceeds, etc., of such ferries to be paid into the District Fund (*contd.*) :—		
				NADIA DISTRICT—*contd.*		
				Ferry over the gap near Tungi.	3 7 1912	Vol. III, p. 1092.
				Ferry at Goruimari ...	16 7 1914	Ditto, p. 1022.
				Ferry at Garadobe ...	13 1 1915	Ditto, p. 1024.
				Ferry at Hât Boalia with two subsidiary ferries at Bhangberia and Maheshpur.	13 1 1915	Ditto.
				Ferry at Jibannagar...	2 3 1915	Ditto, p. 1025.
				Ferry at Dasami ...	61, 6 12 1916	Ditto, p. 1029.
				Ferry over the Putimari gap of the road from Kaliganj to Mira Bazar.	6, 17 4 1918	Ditto, p. 1112.
				Ferry over the Natna Khal on the Meherpur-Tehatta road.	24, 15 7 1920	Ditto, p. 1123.
				Ferry over the Padmamala gap of the road from Chapra to Natuda.	6, 27 4 1921	Ditto, p. 1126.

PAPER CURRENCY.

ACT NO. I. OF 1866.

(Received the assent of the Governor-General on the 5th January 1866.)

An Act to amend Act No. XIX of 1861 *(to provide for a Government Paper Currency.)*

Recites expediency of amending Act XIX, 1861.

1. Amends Act XIX, 1811, Section 9, by addititional enactment.
2. Act to be called "THE CURRENCY ACT AMENDMENT ACT, 1866."

Preamble.

WHEREAS it is expedient to amend Act No. XIX of 1861 *(to provide for a Government Paper Currency)*; It is enacted as follows:—

Addition to Section 9 of Act XIX of 1861.

I. The ninth Section of the said Act shall be read as if after the words "Provided that the said Head Commissioner, Deputy Commissioners and Agents shall in all cases be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same," the following words were inserted (that is to say,)—

"Every person so tendering bullion or foreign coin and depositing the same in any such Office or Agency shall be entitled to receive therefor a certificate signed by the person or persons authorized to issue the Notes aforesaid, which certificate shall acknowledge the receipt of such bullion or foreign coin, and shall state the value thereof after deducting the expense of melting and assaying the same, and shall also state the interval (which the Governor-General in Council shall from time to time fix by notification in the Gazette of India) on the expiration of which, if such certificate be presented to such Office or Agency, the holder shall be entitled to receive Promissory Notes in exchange for the said bullion or foreign coin at the rate and subject to the deduction aforesaid: and no person so tendering as aforesaid and receiving such certificate shall be entitled to receive such Notes

previous to the expiration of the interval so stated in the said certificate. But nothing herein contained shall preclude the person or persons so authorized from issuing, if he or they shall think fit, Notes in exchange for bullion or foreign coin at the rate and subject as aforesaid."

Short Title.

II. This Act shall be called "The Currency Act Amendment Act, 1866."

RURAL POLICE, N. W. PROVINCES.

ACT No. II. OF 1866.

(Received the assent of the Governor-General on the 12th January 1866.)

An Act to amend Act No. II. of 1865.

Recites expediency of amending Act II, 1865.

1. Empowers the Collector to make assessment, on default of landed proprietor to make assessment, or in case of his assessment being inadequate.

2. Authorizes Local Government to make rules for the exercise of such power.

3—4. Act to be read as part of Act II, 1865, and (4) to be called "THE RURAL POLICE AMENDMENT ACT, 1866."

Preamble.

WHEREAS it is expedient to amend Act No. II of 1865 *(to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces and elsewhere)*; It is enacted as follows:—

Power to the Collector to assess the proprietor where the latter has not made any or an insufficient assessment under Section 2 of Act No. II of 1865.

I. If any proprietor of an estate, authorized to make an assessment under the second Section of the said Act, shall fail altogether to make such assessment, or shall assess under the said Section a sum which the Collector of the District in which such estate is situate shall consider inadequate, it shall be lawful for such Collector to assess upon such estate for the purposes aforesaid, a sum payable yearly by the proprietor, not exceeding nine-tenths of the amount which might have been raised in each year under the said Sec-

tion. Such assessment shall be exclusive of the Municipal cess or per-centage mentioned in the sixth Section of the said Act.

Local Government empowered to make rules as to extent and exercise of the authority conferred by Section 1.

II. The Local Government may from time to time lay down rules respecting the extent and exercise of the authority conferred by the last preceding Section, and such authority shall be subject to the rules aforesaid.

This Act to be construed with Act No. II of 1865.

III. This Act shall be read and taken as part of the said Act No. II of 1865.

Short Title.

IV. This Act shall be called "The Rural Police Act Amendment Act, 1866."

RECORDERS' COURTS, BRITISH BURMAH.

ACT No. III. OF 1866.

(Received the assent of the Governor-General on the 26th January 1866.)

An Act to confer certain increased powers on the Registrars of the Recorders' Courts in British Burmah, and for other purposes.

Recites expediency of conferring on Registrars increased powers.

1—8. Empowers Registrars in absence of Recorder to make orders for arrest, &c., attachment, &c., protection, &c., of property, injunctions, &c.; subject (2) to alteration, &c., on application of person aggrieved, which (3) may be made to Registrar himself; who (4) shall take down the evidence; and (5) subject to appeal to Recorder; to whom (6) if absent proceedings are to be sent; and (7) who may affirm, &c., the order, or postpone its execution, &c.; but (8) no such application or appeal to be brought after end of the sittings of the next sittings of the Court after order is made.

9. Empowers Registrars to receive affidavits and administer oaths, &c., in all suits, &c., in the Court.

10. Directs the trial of all suits in which the Recorder is a party or necessary witness to be heard, &c., by Commissioner, who may exercise all the powers of the Recorder.

11. Empowers the Governor-General in Council to provide for temporarily filling up the office, in case of death or absence of Recorder, &c.

12. Small Cause Court's powers of Registrar under Act XXI, 1863, may be exercised by Recorders.

13. Empowers Recorders to appoint officiating Registrar in case of absence of Registrar from illness, &c.

14. Empowers Recorder to make general Rules of Practices, but they must not be inconsistent with the Code of Civil Procedure.

15. This Act to be read as part of Act XXI, 1863.

Preamble.

WHEREAS it is expedient to confer upon the several Registrars of the Recorder's Courts in British Burmah certain increased powers; It is enacted as follows :—

Power to Registrars appointed under Act XXI of 1863 to make certain orders interlocutory.

I. Every Registrar appointed under Act No. XXI of 1863 (*to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein in British Burmah, and to establish Courts of Small Causes in the said Towns*) may, in the absence of the Recorder of the Court to which such Registrar is appointed, make all such orders for arrest before judgment, for attachment of property before judgment, for the protection, management, and custody of property in dispute in any suit, for injunctions restraining breaches of contract or wrongful acts, as such Recorder if present might make.

Such orders may be altered or reversed on application.

II. Every order made by any Registrar in the exercise of the powers conferred upon him by this Act may be altered or reversed upon the application of any person, whether a party to the suit or not, who may deem himself to be aggrieved by such order.

Application may be made to and disposed of by Registrar.

III. Every such application may be made to and disposed of by the Registrar of the Court in which such order shall have been made in the absence of the Recorder of such Court.

Registrar to take down evidence.

IV. The Registrar to whom any such application shall be made, shall take down the evidence given upon the hearing of such application.

Appeal against orders made by Registrar.

V. Every order made by a Registrar in pursuance of this Act shall be subject to an appeal, under the general rules applicable to appeals from orders, to the Recorder of the Court by the Registrar of which such order shall have been made.

Power to appeal to Recorder in his absence.

VI. In case of the absence of the Recorder before whom the appeal is brought, the person appealing may make such application by way of petition,

and may require the Registrar from whose order such appeal shall be brought, to transmit to such Recorder copies of such petition and of all the evidence received by the Registrar upon the hearing of the application from the order upon which such appeal shall have been brought.

Power to Recorder to alter or reverse the order appealed against.

VII. Such Recorder may affirm, alter, or reverse the order from which such appeal shall be brought, or postpone the further consideration of such appeal under the next sittings of the Court in which such order shall have been made.

Time within which appeals to be brought.

VIII. No appeal from any order made by any Registrar under the powers conferred by this Act, nor any application to alter or reverse such order, shall be brought after the conclusion of the sittings of the Court in which such order shall have been made, which shall commence next after the making of such order.

Registrar to receive affidavits and administer oaths.

IX. Every Registrar appointed under the said Act shall have power to receive affidavits and to administer oaths and affirmations in all suits which may or shall be depending in any Court established under the said Act.

Trial of case in which Recorder is a party or witness.

X. In case the Recorder of any Court established under the said Act shall be a party, or a necessary witness to or in any suit or proceeding instituted in such Court, such suit or proceeding and all applications therein shall be heard and determined by the Commissioner of the Division in which such Court shall be situated, and such Commissioner shall in every such suit or proceeding have and exercise all the powers by the said Act or by this Act vested in such Recorder.

Provision for vacancy of the Office of Recorder.

XI. Upon the happening of a vacancy in the Office of Recorder and during any absence of a Recorder from British Burmah, the Governor-General of India in Council shall appoint any person with such qualifications as are required by the said Act in persons to be appointed Recorders, to perform the duties of Recorder. The person so appointed shall be authorized to sit and perform the

duties of Recorder until some person shall have been appointed by the Governor-General in Council to the Office of Recorder and shall have entered on the discharge of the duties of such Office, or until the Recorder shall have returned from such absence.

Registrar's powers as a Small Cause Court Judge exercisable by Recorder.

XII. So far as regards Small Causes, all or any of the powers and duties conferred and imposed on any Registrar by this Act or under or by virtue of Sections thirty-five and thirty-six of Act No. XXI of 1863, may be exercised and performed by the Recorder of the Court to which such Registrar is attached.

Power to appoint an officiating Registrar.

XIII. Whenever any person holding the Office of Registrar under Act No. XXI of 1863, shall obtain leave of absence or be disabled through illness from performing his duties, it shall be lawful for the Recorder of the Court to which such Registrar is attached, or, in his absence, for the Commissioner of the Division in which such Court is situate, to appoint some person to officiate as Registrar: and such person while so officiating shall have the same power and perform the same duties as the Registrar of such Court under this Act and any other law for the time being in force. Any person appointed under this Section may hold at the same time any other Office under Government.

Power to make rules of practice.

XIV. The Recorder of any Court established under the said Act shall have power to make and issue general rules for regulating the practice and procedure of his Court, and to prescribe forms for every proceeding therein for which he shall think that a form should be provided, and from time to time to alter any such rule or form: and the rules so made, and the forms so framed, shall be published in the Official Gazette, and after being so published shall be observed and used in the said Court: Provided that such rules and forms shall not be inconsistent with the Code of Civil Procedure or any other law for the time being in force, and shall, before they are published, have received the sanction of the Chief Commissioner of British Burmah.

This Act to be read with Act XXI of 1863.

XV. This Act shall be read with, and taken as part of, the said Act No. XXI of 1863.

CHIEF COURT OF THE PUNJAB.

ACT No. IV OF 1866.

(Received the assent of the Governor-General on the 16th February 1866.)

An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

Recites expediency of amending the Chief Court of the Judicial Commissioner, &c., and the previous sanction of the Secretary of State for India to this Act.

1. Interprets the words, Punjab, Lieut.-Governor, Chief Court, Judge, Registrar, Magistrate, Barrister, Section, words of Number, and of Gender.

2—5. New Court to be called, Chief Court of the Punjab, and be constituted how; and (3) Judges thereof how to take precedence; and (4) to hold their Offices during the pleasure of the Governor-General in Council; and (5) every Judge to make specified declaration.

6—8. Court may appoint a Registrar the Principal Ministerial Officer, with duties to be prescribed by Court; and (7) a Deputy Registrar and establishment of Clerks; (8) such Registrar, &c., to be liable to dismissal by the Chief Court, but sanction of Lieutenant-Governor required for dismissal of Registrar and Deputy Registrar.

9. Court to have a seal, with specified device.

10—12. Describes the classes entitled to appear, plead and act in Court; and (11) authorizes Court to revoke license of pleaders; and (12) prescribes the rule as to fees of licensed pleaders.

13. Makes the Chief Court the highest Court of Appeal from the Civil and Criminal Courts of the Punjab, and the sole Court of Appeal except as is excepted.

14—16. Empowers the Chief Court to remove, &c., either for trial, &c., by itself, or (15) for trial by any other Court, any suit pending in a subordinate Court; and (16) in like manner to call for the record of any case in any Small Cause Court.

17. Directs that all Special Appeals after date of establishment of Chief Court be heard by Chief Court only.

18. In Chief Court Civil suits shall be regulated by Punjab Rules of Procedure for the time being.

19. The Law of the Court in its Original and Appellate Jurisdiction to be the rules of Law, Equity and good conscience applicable to the case in the local Court having jurisdiction.

20. Empowers the Chief Court to try European British Subjects, and directs that future commitments and bailments of that class shall be to the Chief Court.

21—24. Justices of the Peace on commitment, &c., of European British Subjects to send the proceedings to the Registrar of Chief Court with a written charge; which (22) the Court may amend, &c.; and accused entitled to copy of charge; and (23) of depositions at specified period; and (24) to be brought to trial on such charge.

25. Empowers the Court, in case the charge is clearly unsustainable, to make entry to that effect, which is to be a stay of proceedings, but not to operate as an acquittal till after three years without fresh charge.

26. Chief Court to hold its sittings ordinarily at the seat of Government, but may hold sittings elsewere with approval of Government. All sittings for exercise of Original Criminal Jurisdiction to be gazetted.

27—28. Pending directions of Chief Court, European British Subjects to be committed for intermediate custody to nearest Criminal Jail, or held to bail for trial at usual place of sittings, &c.; and (28) Chief Court may direct generally or specially for trial and commitment of European British Subject.

29—32. All trials under section 20 of European British Subjects, shall be by Jury; which (30) shall be summoned according to provisions of Criminal Code of Procedure, Sections 336 to 340; and besides in case of need, Officers, Commissioned and Non-commissioned, resident within 10 miles of the Court; and (31) the majority of any Jury shall be Europeans or Americans if required by European British Subject, on trial; and (32) the Jury shall consist of twelve persons, and unanimity or a majority of nine with the concurrence of the Judge shall be necessary for a verdict of guilty.

33—34. Sentences of death by Punjab Chief Court not to require confirmation by Sudder, and grounds of need not be stated; and (34) judgment and finding and sentence not required to be in particular form.

35. Empowers Judge on conviction of any person to reserve any question of law or of the admissibility of evidence for the opinion of the Court; and pending such question prisoner to be remanded. If no question reserved, Judge to send warrant for execution of sentence.

36. Save as hereinbefore otherwise provided, the Criminal Code of Procedure to apply as to Juries, trials and sentences.

37—41. European British Subject apprehended in the Punjab, answerable for any offence committed in Foreign State, and may be committed for such offence, subject to (38) the order of the Lieutenant-Governor, to whom case shall be reported; or (39) may be sent by order of Government for trial in the Foreign State, if any Court competent to try him has been established there by Indian Government; and (40) prescribes the form of the warrant of commitment and bail-bond in all such cases; and (41) the special order of the Lieutenant-Governor of the Punjab shall be sufficient for the trial by Chief Court or for conveying the accused out of the Punjab.

42. No decree of Civil Court to be revised or modified on appeal, nor sentence of Criminal Court, save by order of two Judges.

43. Authorizes the Chief Court to make rules for the exercise of its Original or Appellate Jurisdiction save as in Act provided.

44. Gives the Chief Court the superintendence over all Courts subject to its Appellate Jurisdiction, and power to call for returns, make general rules, prescribe forms of proceeding, and for keeping accounts; to settle Tables of fees, provided the rules, &c., are not inconsistent with this Act, &c.

45. Gives the Chief Court jurisdiction in all proceedings pending in the Court of the Judicial Commissioner.

46. Prescribes rules, to apply when the Chief Court consists of two Judges only and they differ in opinion ; (1) if on appeal and the difference is on question of fact; (2) if on appeal on a point of law, &c.; (3) if in the Original Civil Jurisdiction on question of law; (4) if in the Original Criminal Jurisdiction.

47—48. Cases referred to High Court shall be heard by not less than three Judges; and (48) Counsel and Vakeel may appear in such cases and costs be given; and opinion of the High Court how to be transmitted.

49. Decides that Registers, &c., be kept by the Court.

50. Declares that by rule any function which may be performed by Chief Court may be performed by any Judge thereof appointed in that behalf by rule under Section 44.

51. Saves Sections 10, 11, 12 from operation of Section 47 of "Pleaders," &c., Act, 1865," when extended to Punjab.

52. Saves powers of Financial Commissioner to hear appeals pending before him at time of passing the Act.

53—54. Act to be entitled "THE PUNJAB CHIEF COURT ACT, 1866;" and (54) to come into operation on day to be fixed in Gazette of India.

Preamble.

WHEREAS it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an orginal jurisdiction for the trial of certain Civil and Criminal cases ; And whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act ; It is enacted as follows :—

Interpretation of terms.

I. In this Act, unless there be something repugnant in the subject or context—

"Punjab."

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court."

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar."

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar or other Officer.

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister."

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section."

"Section" denotes a Section of this Act.

Number.

Words in the singular include the plural: words in the plural include the singular.

Gender.

Words importing the masculine gender include females.

Constitution of Chief Court.

II. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

Precedence of Judges of Chief Court.

III. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

Tenure of office of Judges of Chief Court.

IV. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

V. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same :—

Declaration to be made by persons appointed Judges of Chief Court.

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

VI. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section.

Appointment of Registrar.

VII. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

Appointment and removal of Ministerial Officers.

VIII. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

Dismissal of Officers of Court.

IX. The Chief Court shall have, and use as occasion may require, a Seal with this inscription, "The Seal of the Chief Court of the Punjab", to be made under the directions of the Lieutenant-Governor ; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

Seal of Chief Court.

Processes to be sealed with Court Seal, and signed by Judge or Registrar.

X. Any person duly authorized by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-suitor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

Agent for Secretary of State, suitors and Advocates, &c., of High Courts may appear and plead.

Licensing of pleaders.

Rules regarding their qualifications and admission.

XI. The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

Power to suspend or revoke Pleaders' license.

XII. The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under the forty-fourth Section.

Fees of Pleaders to be subject to control.

XIII. The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such

The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.

cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a Settlement of Land Revenue shall be in progress, and the Local Government, under Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

Extraordinary original Civil jurisdiction.

XIV. The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

Power to transfer suits and appeals from one subordinate Court to another.

XV. The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

Power to call for record of cases decided by subordinate Courts.

XVI. The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

XVII. All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

Special appeal from Courts in Punjab to lie only to Chief Court.

XVIII. Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the rules relating to Civil Procedure for the time being in force in the Punjab.

Regulation of proceedings in Civil suits.

XIX. In the exercise of its Civil jurisdiction, Original as well as Appellate, such rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

In exercise of its Civil jurisdiction, law of the local Courts to apply.

XX. The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

Power to try European British subjects.

XXI. Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with

Charge to be delivered to Registrar with commitment of European British subject.

the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

Chief Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

XXII. The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

Accused to have copies of examinations.

XXIII. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Effect of charge.

XXIV. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Chief Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

XXV. When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been

brought on the same matter, he shall be considered as having been acquitted.

Places of holding sittings.

XXVI. The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab: but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Procedure pending directions of Chief Court as to place of trial of European British subject.

XXVII. Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

XXVIII. It shall be lawful for the Chief Court to direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such European British

subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

XXIX. All trials under the twentieth Section shall be by Jury.

Summoning of Jurors to serve on trials.

XXX. Whenever the Chief Court shall have given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

Military men not exempt.

Jury for trial of European British subject.

XXXI. If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors

shall consist of Europeans or Americans or both Europeans and Americans.

Number of Jury requisite to verdict of guilty.

XXXII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

XXXIII. So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

XXXIV. So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to single Judge to reserve for Chief Court any question of law or evidence.

XXXV. When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such

person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question reserved.

XXXVI. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction and to trials before such Court and to sentences by such Court and to the carrying into execution of such sentences.

Save as aforesaid, Criminal Procedure Code to apply to Juries, trials, sentences and execution.

XXXVII. Every European British subject apprehended within the Punjab or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

European British subjects to be amenable for offences committed in foreign territory.

XXXVIII. The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon,

Committing Magistrate to report to the Lieutenant-Governor.

and the Lieutenant-Governor may order the trial to be had before the Chief Court.

If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.

XXXIX. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

Form of warrant of commitment and of bail-bond.

XL. When the person charged is committed to custody, the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

Order of Lieutenant-Governor to be full authority.

XLI. In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.

XLII. No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

XLIII. Save as herein otherwise provided, the Chief Court may by its own rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.

XLIV. The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette and after being so published shall be used and observed in the Chief Court: Provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Chief Court to superintend subordinate Courts, and to frame rules of practice for itself and such Courts.

XLV. The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

Provisions as to proceedings pending in Judicial Commissioner's Court.

XLVI. If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

Procedure in case of difference of opinion between Judges when Court consists of only two.

(*1st.*)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

1st.—On appeal on a question of fact.

(*2nd.*)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

2nd.—On appeal on a question of law.

(*3rd.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under the thirty-fifth Section.

3rd.—In exercise of original jurisdiction on a question of law.

(*4th.*)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

4th.—In exercise of original jurisdiction on a question of fact.

XLVII. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

Hearing and decision of referred cases.

XLVIII. The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court under the forty-sixth Section, shall be costs in the suit.

Parties may appear in person, or by Advocate or Vakeel.

Transmission of Judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

XLIX. The Chief Court shall keep such registers, books and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

Copies of records to be furnished.

L. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

Chief Court's functions exerciseable by single Judge.

LI. Whenever the Lieutenant-Governor of the Punjab shall, under the authority vested in him by Section forty-seven of the Pleaders, Mookhtars and Revenue Agents' Act 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections ten, eleven and twelve of this Act.

Sections 10, 11 and 12 not to be affected on extension to Punjab of Act XX of 1865.

LII. Act No. XXVII of 1865 (*to make temporary provision for the decision of Civil appeals in the Districts within the Lieutenant-Gov-*

Repeal of Act No. XXVII of 1865.

ernorship of the Punjab) is hereby repealed. Provided that all appeals which under the provisions of such Act shall be pending before the Financial Commissioner of the Punjab at the date of the passing of this Act may be heard and decided by him as if the present Act had not been passed.

Short title.

LIII. This Act may be cited as "The Punjab Chief Court Act, 1866."

Commencement of Act.

LIV. This Act shall come into operation on such day as the Governor-General of India in Council shall fix by a notification published in the Gazette of India.

BILLS OF EXCHANGE.

ACT No. V OF 1866.

(Received the assent of the Governor-General on the 23rd February 1866.)

An Act to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India.

Recites expediency of providing a Summary procedure for Bills of Exchange, &c., and for amending the Laws of British India.

1. Interprets words, British India, High Court, Local Government.

2—4. Authorizes proceedings according to this Act after 1st May 1866 in High Court on all Bills, &c., not more than 6 months overdue; and allows defence to be made only by order of Judge, on (3) defendant's paying amount into Court, and showing a good defence on the merits by affidavit, &c.; and (4) after decree, Court may stay execution.

5. Court may also stay proceedings until plaintiff gives security for costs, and may impound Bill, &c.

6. Gives remedy for costs of noting Bill, &c.

7. Extends Code of Civil Procedure to proceedings under this Act so far as applicable.

8. Authorizes Local Governments to extend the procedure under this Act to other Courts, with such limits as it may deem expedient.

9. Dispenses with the necessity of a statement of the consideration in agreements to answer for the debt, default, or miscarriage of another person.

10. Promises to answer for the debt, default, or miscarriage of another, not to be regarded as continuing after change in the Firm to which they are given, unless such appears to be the intention by express stipulation or necessary implication.

11. Acceptances of Bills, &c., to be invalid, unless on the Bills themselves.

12. Bills, &c., drawn in British India on any other part of British India to be deemed Inland Bills.

13. Protest of Bill, whether Inland or Foreign, to be *primâ facie* evidence that the Bill has been dishonored.

14. Authorizes suit on lost Bills, on specified conditions.

15. Vests in Assignee of Policies of Insurance against marine risk and Fire all the rights of the party nominally insured, if Assignee has the real interest.

Schedule of Form in proceeding on Bills, &c.

Preamble.

WHEREAS it is expedient to provide a summary procedure for the recovery of money due on dishonoured Bills of Exchange, Hundís and Promissory Notes; and whereas inconvenience is felt by persons engaged in trade by reason of the laws of British India being in some particulars different from those of England in matters of common occurrence in the course of such trade; and whereas, with a view to remedy such inconvenience, it is expedient to amend the laws of British India as hereinafter is mentioned; It is enacted as follows:—

Interpretation Clause.

I. In this Act, unless there be something repugnant in the subject or context—

"British India."

"British India" shall mean the territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better Government of India*):

"High Court."

"High Court" shall mean the High Court of Judicature at Calcutta, Madras or Bombay, as the case may be:

"Local Government."

And in every part of British India in which this Act shall operate, "Local Government" shall mean the person authorized by law to administer executive government in such part.

II. From and after the first day of May 1866, all suits upon Bills of Exchange, Hundís or Promissory Notes commenced in any High Court within six calendar months after the same shall have become due and payable, may, in case the plaintiff shall desire to proceed under this Act, be commenced as hereinafter is mentioned, (that is to say) the plaint shall be in the form prescribed by the Code of Civil Procedure ; but the summons shall be in the form contained in the Schedule to this Act ; and in any case in which the plaint and summons shall be in such forms respectively, it shall not be lawful for the defendant to appear to or defend the suit unless he shall obtain leave from a Judge as hereinafter mentioned so to appear and defend ; and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

From and after 1st May 1866, in all suits upon Bills of Exchange, &c., if plaintiff desires to proceed under this Act, the summons shall be in the form given in the Schedule.

III. The High Court shall, upon application within the period of seven days from the service of such summons, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as to the Court may seem fit.

Defendant showing a defence upon the merits to have leave to appeal.

IV. After decree, the High Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons

Court may, under special circumstances, set aside decree.

and to defend the suit, if it shall seem reasonable to the Court so to do and on such terms as to the Court may seem just.

Court may order Bill to be deposited with Officer of Court in certain cases.

V. In any proceedings under this Act, it shall be competent to the High Court to order the Bill or Note sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and further to order that all proceedings shall be stayed until the plaintiff shall have given security for the costs thereof.

Remedy for recovery of cost of noting non-acceptance of dishonoured Bill.

VI. The holder of every dishonoured Bill of Exchange or Promissory Note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this Act for the recovery of the amount of such Bill or Note.

Civil Procedure Code and rules made thereunder to apply to proceedings under this Act.

VII. The provisions of the Code of Civil Procedure, and all rules made under or by virtue of the said Code shall, so far as the same are or may be made applicable, extend and apply to all proceedings to be had or taken under this Act.

Local Government may extend Act.

VIII. It shall be lawful for the Local Government to direct that all or any part of the provisions in Sections 2 to 7, both inclusive, of this Act shall, *mutatis mutandis*, apply to all or any Courts or Court in the territories under such Government, other than a High Court, and within one month after such order shall have been made and published in the Official Gazette, such provisions shall extend and apply in manner directed by such order, and any such order may be in like manner from time to time altered and annulled. In and by any such order the Local Government may direct by whom any powers or duties incident to the provisions applied under this Act, shall and may be exercised with respect to matters in such other Courts or Court, and may make any orders or regulations which may be deemed requisite for carrying into operation in such Courts or Court the provisions so applied.

IX. No special promise to be made by any person after the passing of this Act to answer for the debt, default or miscarriage of another person, being in writing, and signed by the party to be charged therewith or some other person by him thereunto lawfully authorized, shall be deemed invalid to support a suit to charge the person by whom such promise shall have been made, by reason only that the consideration for such promise does not appear in writing, or by necessary inference from a written document.

Consideration for guarantee need not appear by writing.

X. No promise to answer for the debt, default or miscarriage of another made to a Firm consisting of two or more persons, or to a single person trading under the name of a Firm, and on promise to answer for the debt, default or miscarriage of a Firm, consisting of two or more persons, or of a single person trading under the name of a Firm, shall be binding on the person making such promise in respect of any thing done or omitted to be done after a change shall have taken place in any one or more of the persons constituting the Firm, or in the person trading under the name of a Firm, unless the intention of the parties, that such promise shall continue to be binding notwithstanding such change, shall appear either by express stipulation or by necessary implication from the nature of the Firm or otherwise.

Guarantee to or for a Firm to cease upon a change in the Firm, except in special cases.

XI. No acceptance of any Bill of Exchange, whether Inland or Foreign, made after the first day of May 1866, shall be sufficient to bind or charge any person, unless the same be in writing on such Bill, or, if there be more than one part of such Bill, on one of the said parts, and signed by the acceptor or some person duly authorized by him.

Acceptance of a Bill, Inland or Foreign, to be in writing on it, and signed.

XII. Every Bill of Exchange or Promissory Note drawn or made in any part of British India, and made payable in or drawn upon any person resident in any part of British India, shall be deemed to be an

What are to be deemed "Inland Bills."

Inland Bill; but nothing herein contained shall alter or affect the stamp duty, if any, which, but for this enactment, would be payable in respect of any such Bill or Note.

Protest by Notary Public to be *primâ facie* evidence of dishonour.

XIII. Protest of a Bill of Exchange, whether Inland or Foreign, when purporting to be made by a Notary Public, shall be *primâ facie* evidence that the Bill has been dishonoured.

Suits on lost negotiable instruments.

XIV. In case of any suit founded upon a Bill of Exchange or other negotiable instrument, if it shall be proved to the satisfaction of the Court that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, it shall be lawful for the Court to make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Rights under marine and fire policies to vest in assignees.

XV. Every assignee, by endorsement or otherwise, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred to and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

SCHEDULE.

No. OF SUIT.

In the High Court of at

Plaintiff
Defendant

To [*here enter the defendant's name, description and address*].

Whereas [*here enter the plaintiff's name, description and address*] has instituted a suit in this Court against you under Act No. V of 1866 *(to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India)* for Rs. principal and interest

[*or* Rs. balance of principal and interest] due to him as the Payee [*or* Indorsee] of a Bill of Exchange [*or* Hundí *or* Promissory Note] of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs. [*here state the sum claimed*] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the Bill of Exchange, Hundí or Promissory Note, and all endorsements upon it*].

ARMS' ACT CONTINUANCE ACT, 1866.

ACT No. VI OF 1866.

(Received the assent of the Governor-General on the 2nd March 1866).

An Act to continue Act No. XXXI of 1860 *(relating to the manufacture, importation and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases) and for other purposes.*

Recites expediency of continuing the Arms' Act (XXXI, 1860) and allowing licenses to be granted on condition, &c.

1. Repeals Act VI, 1865, and XXXI, 1860, s. 55; and continues the rest of Act XXXI, 1860, subject to modifications, till Governor-General in Council shall declare otherwise.

2. Authorizes the Magistrate, &c., to grant the licenses specified, subject to conditions, on breach of which license to be void.

3. Amends the last Clause of s. 27 of Act XXXI, 1860.
4. Title of Act.

Preamble.

WHEREAS Act No. XXXI of 1860 as continued by Act No. VI of 1865 will expire on the first day of October 1866; and whereas it is expedient to continue the said Act No. XXXI of 1860 with such modifications as are hereinafter mentioned; and whereas it is desirable to render the license mentioned in the 26th and other Sections of the same Act grantable upon conditions, and to enable the local Governments to exempt classes of persons, Districts and parts of Districts from the operation of Sections 25 and 26 of the same Act; It is enacted as follows:—

Repeal of Act No. VI of 1865 and of part of Section 55 of Act No. XXXI of 1860.

Rest of Act No. XXXI of 1860 continued.

I. Act No. VI of 1865 and the second Clause of Section 55 of Act No. XXXI of 1860 are hereby repealed; but the rest of the Act last herein before mentioned shall, subject to the modifications hereinafter mentioned, continue in force from the passing of this Act until the Governor-General of India in Council shall by an order published in the Gazette of India declare otherwise.

Licenses to bear arms may be granted on conditions.

II. The license mentioned in Sections 26, 28, 29 and 30 of the said Act No. XXXI of 1860 may be granted by the Magistrate or other person specially authorized to grant the same, subject to such condition or conditions, if any, as such Magistrate or other person shall think fit; and on breach of any such condition, or failure to comply therewith, such license shall thereupon be null and void.

Amendment of Section 27 of Act No. XXXI of 1860.

III. For the last Clause of Section 17 of the same Act, the following words shall be substituted, (that is to say) "Such other persons, classes of persons, Districts or parts of Districts as the local Government may by notification in the Official Gazette from time to time exempt from such provisions."

Short Title.

IV. This Act may be cited as "The Arms' Act Continuance Act, 1866."

JUDICATURE, STRAITS' SETTLEMENTS.

ACT No. VII OF 1866.

(Received the assent of the Governor-General on the 2nd March 1866).

An Act to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, Act No. XXIII of 1840 *(for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil).*

Recites expediency of extending to Straits' Settlements, Act XXIII, 1840.

1. Extends Act XXIII, 1840, to Straits' Settlements, with a qualification.

2. Summons or other process for commencement of High Court suit may be served in Straits' Settlements, or in local jurisdiction of Straits' Court of Judicature, if endorsed by Judge, and Certificate to what effect be annexed; and service may be how.

Preamble.

WHEREAS it is expedient to extend to the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, the provisions of Act No. XXIII of 1840 *(for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by Authorities in the Mofussil)*; It is enacted as follows :—

Extension of Act.

I. The said Act No. XXIII of 1840 shall be read as if the words "Supreme Courts of Calcutta, Madras, and Bombay" included the Court of Judicature of Prince of Wales' Island, Singapore and Malacca: Provided that no writ, warrant, or other process shall be endorsed under the said Act by such Court so as to compel the attendance beyond the limits of its jurisdiction of any person living within such limits, unless special grounds be proved to the satisfaction of the Judge of such Court to whom such endorsement shall be applied for in support of the application, which grounds shall be recorded in the endorsement of the writ, warrant or other process.

Proviso.

Service of process issued by one Court to commence a suit or action within the local jurisdiction of another Court.

II. Any summons or other process issued to commence a suit by any High Court, may be served within the local jurisdiction of the said Court of Judicature of Prince of Wales' Island, Singapore and Malacca, if endorsed for service by a Judge of such Court of

Judicature as hereinafter provided, and any summons or other process issued to commence a suit or action by the same Court of Judicature may be served within the local jurisdiction of any High Court, if endorsed for service by a Judge of such High Court as hereinafter provided. The summons or other process intended for service shall be accompanied by a certificate annexed thereto, signed by a Judge of the Court from which the same is issued, stating some special cause why such summons or other process should be served within the jurisdiction of the High Court of Judicature, as the case may be, and application shall be made to a Judge of such Court, on production of such summons or other process, and of such certificate, prior to such service thereof. On such application being made, it shall be in the discretion of such Judge to require proof by affidavit or otherwise that it is proper to allow such service, and on hearing such proof such Judge shall either endorse the summons or other process for service, or shall endorse thereon the reason for not ordering the service thereof. If such summons or other process be not endorsed for service as aforesaid, it shall not be served under this Act. When endorsed for service it shall be served in the same manner as if it had originally issued out of the Court in which such endorsement is made.

CODE OF CRIMINAL PROCEDURE.

ACT No. VIII OF 1866.

(Received the assent of the Governor-General on the 2nd March 1866).

An Act further to amend the Schedule annexed to the Code of Criminal Procedure.

Recites expediency of amending the Schedule of the Code of Criminal Procedure.

1—2. Amends parts of column 7 in the Schedule.

3—4. Saves other parts of the Code, and (4) this Act to be read as part of the Code.

Preamble.

Whereas it is expedient further to amend the Schedule annexed to the Code of Criminal Procedure; It is enacted as follows:—

Amendment of Schedule as regards Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448 and 451 of the Indian Penal Code.

I. In lieu of the words in the parts of column 7 of the said Schedule respectively referring to Sections 172, 174, 271, 277, 278, 279, 285, 286, 289, 290, 325, 380, 448 and 451 of the Indian Penal Code, there shall be read the words "Any Magistrate."

Amendment of Schedule as regards Sections 392 and 393 of the Indian Penal Code.

II. In lieu of the words in the parts of the said column respectively referring to Sections 392 and 393 of the Indian Penal Code, there shall be read the words "Court of Session or Magistrate of the District."

Nothing in this Act to alter effect of the rest of the Schedule.

III. Nothing herein contained shall be taken to alter the effect which any other part of the said Schedule had immediately before the passing of this Act.

This Act to be read with the Code of Criminal Procedure.

IV. This Act shall be read with and taken as part of the Code of Criminal Procedure.

PLEADERS, MOOKHTARS, AND REVENUE AGENTS' ACT.

ACT No. IX OF 1866.

(Received the assent of the Governor-General on the 9th March 1866.

An Act to extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," *and of Act No. XXIX of* 1865.

Recites expediency of extending the Pleaders' Act, and Act XXIX, 1865, to the Sudder Court of the N. W. Provinces.

1. Saves the powers of the said Sudder Court as to specified matters, notwithstanding the said Act.

2. Extends the Pleaders' Act, ss. 5 to 12, both inclusive, 14, 16, 18, 37, 39, and 41; and Act XXIX, 1865, ss. 1 and 2, to Pleaders and Mookhtars practising in the said Sudder.

3. This Act to be read as part of the Pleaders' Act, 1865.

Preamble.

Whereas it is expedient to extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mookhtars and Revenue Agents' Act 1865," and of Act No. XXIX of 1865; It is enacted as follows:—

Power to Sudder Court, N. W. P., to make rules as to Pleaders and Mookhtars of such Court.

I. Notwithstanding any thing contained in "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," the said Sudder Court shall have power to make rules for the qualification, admission and enrolment of proper persons to be Pleaders and Mookhtars of such Court, for the fees to be paid for the examination, admission and enrolment of such persons, and, subject to the provisions contained in the same Act, for the suspension and dismissal of the Pleaders so admitted and enrolled. The said Court may also from time to time vary and add to such rules.

Certain provisions contained in Act No. XX of 1865 and in Act No. XXIX of 1865 to apply to Pleaders and Mookhtars practising in such Court.

II. The provisions contained in Sections 5 to 12 (both inclusive), 14, 15, 18, 37, 39 and 41 of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," and in Sections 1 and 2 of Act No. XXIX of 1865, shall, *mutatis mutandis*, apply to Pleaders and Mookhtars practising in the said Sudder Court.

This Act to be read with Act No. XX of 1865.

III. This Act shall be read with and taken as part of "The Pleaders, Mookhtars and Revenue Agents' Act, 1865."

THE INDIAN COMPANY'S ACT, 1866.

ACT No. X OF 1866.

(*Received the assent of the Governor-General on the 12th March 1866.*)

An Act for the Incorporation, Regulation, and Winding up of Trading Companies and other Associations.

Recites the expediency of consolidating and amending the Laws relating to the Incorporation, Regulation, and Winding-up of Trading Companies, &c.

Preliminary, 1—5.

1—2. Entitles the Act, the Indian Company's Act, 1866; and (2) brings it into operation, 1st May 1866.

3. Interprets the words British India, Year, Month, Insurance Company, Court, District Court, Local Government, High Court.

4. Prohibits the establishment of Banking co-partnership of more than 10 persons, or partnership for other purposes of gain of more than 20 persons, unless it is registered under this Act, or is formed under some special Act, &c., or by Letters Patent, &c.

5. States the divisions, parts, and heads under which this Act is arranged.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES, &c. UNDER THIS ACT.

Memorandum of Association, 6—13.

6—10. Prescribes the mode of forming a Company with or without limited liability; and (7) the mode of limiting the liability; and (8) what the Memorandum shall contain if a Company of limited liability; and (9) what, if a Company limited by a guarantee; and (10) what, if a Company of unlimited liability.

11. What shall be the legal force and effect of the Memorandum.

12—13. Empowers Companies limited by shares to alter their Memorandum of Association; and (13) to change their name.

Articles of Association, 14—16.

14—16. Articles of Association may be registered with the Memorandum, if the Company is limited by shares, and must be so, if Company is limited by guarantee or unlimited; and prescribes certain particulars to be contained in the Articles; and (15) if the Company is limited by shares, and Articles are not registered, the Articles contained in Schedule A are to be the Articles of the Company; and (16) Articles to be stamped with Deed-Stamp, and to be binding on all Shareholders.

General Provisions, 17—20.

17. Directs the Memorandum of Association to be delivered to Registrar, and what fees shall be paid.

18. Declares what shall be the effect of registration.

19. Entitles any member to a copy of the Memorandum and Articles.

20. Prohibits the registration of a new Company with the same name as any other already registered.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS.

Distribution of Capital, 21—36.

21. Classes shares as moveable property, and directs that they be numbered.

22. Defines who shall be members.

23. Gives validity to transfer of shares by representatives of deceased members, not being themselves members.

24. Directs a Register of members to be kept, and of what it shall be composed.

25—26. List to be made annually of Shareholders, with what particulars; and to be forwarded to Registrar of Joint Stock Companies; under (26) specified penalty for default.

27—28. Notice to be given to Registrar of division or conversion of capital into shares, or of consolidation of stock; (28) after which provisions of this Act as to shares to cease, &c.

29. No notice of any Trust to be received or entered by Registrar.

30. Certificate of shares or stock to be *primâ facie* evidence of title.

31. Register of members to be kept, and to be open to inspection by members gratis, by others on payment of fee, and copy of Register to be given on payment of specified fee, and penalty incurred if inspection or copy refused.

32. Register may be closed for not exceeding thirty days in the year.

33—35. Notice of increase of capital or members to be given to Registrar; and (34) provides a remedy, by order of Court, for any person whose name is without sufficient cause entered on the Register or is omitted, &c.; and (35) such order to be sent to Registrar; and (36) the Register to be *primâ facie* evidence of all matters inserted therein.

Liability of Members, 37.

37. Past and present members to be liable to contribute to payment of debts, &c., except as follows :—(1) past member who has ceased to be so for a year or upwards; except also (2) in respect of debts contracted since he ceased to be a member; and (3) only in case present members are insufficient to satisfy the contributions required; and (4) no members shall be liable for more than the unpaid portion of his share; and (5) in case of guaranteed Company, no member to be liable beyond amount of his guarantee; and (6) in case of Policy of Insurance, no member to be liable beyond amount restricted by policy; and (7) claim of members for dividends not to rank as debts as against claims of creditors not members.

PART III.

MANAGEMENT AND ADMINISTRATION.

Provisions for Protection of Creditors, 38—48.

38—41. Directs that Company shall have a registered Office; (39) of which notice shall be given; and (40) directs that name of Limited Company shall be put up in Office of Company, &c., and shall appear in all Bills, &c., of the Company; (41) in default of which Company and Directors shall be liable to specified penalties.

42. Directs in what way contracts may be made by, or on behalf of, Company, *e. g.*, in same way as if made by individual persons.

43. Directs that a Register shall be kept of mortgages affecting property of the Company, and establishes penalty for default; and provides for inspection of Register.

44. Limited Banking Company, Insurance Company, and Deposit Provident or Benefit Society to make statement in Form D in Schedule on days specified, and put it up in Office of Company, &c., and copy of it to be given to members for 8 annas.

45—46 Company under this Act, with capital not in shares, to keep a Register, &c.; and (46) in default shall incur specified penalty.

47. Makes Company liable on Promissory Notes, &c. made, &c., in the name of the Company by any person acting under authority of the Company.

48. If members of Company are reduced below seven, and Company continues its business as Company beyond six months after, members are to be individually liable for debts of Company.

Provisions for Protection of Members, 49—61.

49. Directs that General Meeting shall be held at least once a year, and Balance Sheet be made out in form of Table A; and once a year accounts shall be audited.

50—54. Empowers Company, by Special Resolutions, to alter the Regulations, &c., or make new Regulations; and (51) defines what shall constitute a Resolution Special; and (52) provides as to votes and as to meetings if no provision made by Company's Constitution; and (53) such Special Resolutions to be forwarded to Registrar of Joint Stock Companies, and (54) shall be annexed to registered Articles (if any) and copy shall be given to members on application, &c.

55. Empowers the Company to appoint under its common seal an Attorney to execute deeds, &c.

56—59. Authorizes the Government to appoint Inspectors, &c., upon application made by specified proportions of members, and (57) on grounds to be specified; and (58) makes it the duty of Officers of Companies to produce books, &c., to Inspectors; and (59) directs that Inspectors shall report, &c.

60—61. Authorizes Companies to appoint Inspectors who shall have same powers, &c., as Government Inspectors; and (61) makes copy of the Report admissible as evidence of the opinion of the Inspectors.

Notices, 62—64.

62. Regulates service of notices, and (63) as to notices by post; and (64) as to the authentication of notices.

Legal Proceedings, 65—67.

65—67. Directs that Minutes be kept of Proceedings of General Meetings, and entered in a book and be signed, and makes such book legal evidence, &c., and (66) authorizes Judge to require security for costs from plaintiff's company, under specified circumstances; and (67) directs form of suit for call, &c., from members.

Alteration of Forms, 68.

68. Enjoins the use of the forms set forth in the second Schedule, and empowers the Governor-General in Council to make alterations in them, but not to increase fees, &c.

Arbitrations, 69—96.

69—74. Empowers Companies to refer matters to arbitration, and declares what shall be effect of Act of Arbitration; and (70) empowers Companies to revoke or alter reference; and (71) makes reference binding; and (72) reference may be to a single arbitrator, or (73) if not to single one, to as many as there are Companies concerned; such Company (74) to appoint its arbitrator under seal, &c.

75—83. In default of Company to appoint an arbitrator, the Local Government may appoint one; and (76) on failure of arbitrator to act, or on his dying or becoming unfit, Company shall appoint a new one; and (77) on default of Company, Local Government may appoint; and (78) appointment not revocable, except by consent; and (79) arbitrators to appoint umpire; or (80) on their default, Local Government; and (81, 82) provide for substitution of new umpire in case of death, &c., of one first appointed; with (83) all the powers of the original one.

84. On default of arbitrators to agree, matters to go to the umpire.

85—95. Empowers the arbitrators and umpire to call for books, &c., and administer oath; and (86) to proceed as they may think fit; and (87) after notice, in absence of parties; and (88) to make several awards, each on part, instead of on all the matters referred; and (89) makes the award binding on the parties; (90) and time for making by umpire, may be extended; and (91) no award to be set aside for irregularity or informality; but (92) awards shall be obeyed, &c., and (93) full effect given to them by the Courts; and (94) except when otherwise agreed, costs to be in discretion of the arbitrators, &c.; or (95) be borne in equal shares if not awarded, &c.

96. Submission to arbitration may be filed in the High Court, &c.

PART IV.

WINDING UP OF COMPANIES.

Preliminary, 97—100.

97—100. Defines who is a "contributory"; and (98) the nature of his liability; and (99) extends his liability to his personal representatives in case of his death; and (100) to his assignees in case of his insolvency.

Winding up by Court, 101—112.

101—105. Under what circumstances Company may be wound up by Court; and (102) defines when a Company shall be deemed unable to pay its debts; and (103) by what Court the Company is to be wound up; and (104) how and by whom application for winding up is to be made; and (105) when the winding up shall be deemed to commence.

106—107. Empowers Court to stop proceedings against Company on or after petition for winding up order; and to appoint a Provisional Liquidator; and (107) Court may dismiss petition, or adjourn hearing, &c.

108. Stops proceedings against Company after winding up order, except by leave of the Court.

109. Copies of order for winding up to be sent to Registrar.

110. Empowers Court to stay proceedings in winding up on petition of creditor, &c.

111. Declares that unpaid portions of share, capital, &c., shall be assets of the Company.

112. Empowers Court to ascertain wishes, &c., of creditors, &c.

Official Liquidators, 113—118.

113—118. Empowers the Court to appoint one or more Official Liquidators, with joint or several powers, &c; and (114) to remove them and appoint others; and (115) Liquidator to take charge of effects, &c.; and (116) have what powers; (117) to be exercised either with or without the sanction of the Court, &c.; and (118) with sanction of the Court may appoint an Attorney, &c.

Ordinary Powers of Court, 119—133.

119—122. First, after winding up order, Court to make a list of contributories; (120) to distinguish between those personally liable and representatives; and (121) empowers Court to order contributories, &c., to deliver property, &c., to Official Liquidator; and (122) to pay debts due to Company, &c.

123—131. Empowers Court to make calls on contributories; and (124) to order contributories or others to pay money, &c.; and (125) all such monies, &c., to be subject to order of Court as respects investment, &c.; and (126) proceedings may be instituted against representatives to compel administration of assets; and (127) orders of Court to be conclusive, subject to appeal given.

128. Empowers the Court to fix a day for proof of debts.

129. Empowers Court to adjust the rights of contributories among themselves, &c.; and (130) to order payment of costs of winding up; and (131) after being wound up, to be dissolved.

132—133. Official Liquidator to report order for dissolution to Registrar, subject (133) on default to penalty of Rs. 100 per day.

Extraordinary Powers of Court, 134—137.

134—137. Empowers Court to summons Officers of Company and other persons for investigation in the interests of the Company, and to decide on questions of lien; and (135) to examine such persons on oath or affirmation, either *vivâ voce* or on interrogatories, &c.; and (136) to require security from persons about to quit India, &c.; all which powers (137) shall be in addition to all the ordinary powers of the Court.

Enforcement of, and Appeal from, Orders, 138—144.

138—140. Orders under this Act may be enforced as decrees may; and (139) by other Courts which would have had jurisdiction if the Company had been registered there; on (140) certified copy of order, &c.

141—142. Rehearings and appeals from orders may be had according to ordinary rules; and (142) signature and seal of Court shall be judicially acknowledged.

143. Constitutes the Judges of District Courts more than twenty miles from High Courts' Commissioners for taking evidence in winding up cases; and (144) makes affidavits, affirmations, and declarations, wherever made before specified authorities, evidence without proof of seal, &c.

Voluntary Winding up of Company, 145—162.

145—148. Defines the circumstances under which a Company may be wound up voluntarily; and (146) when such winding up shall be deemed to commence; after which (147) the Company is to cease to carry on business, &c.; and (148) Special Resolution for winding up to be advertized in Gazette.

149. Defines the consequences which ensue in a voluntary winding up, *viz.*, application of assets in payment of debts, appointment of Liquidators by a General Meeting, cessation of powers of Directors.

150. Makes share capital not called up a debt to the Company.

151. Empowers Company to delegate to a Committee, &c., the appointment of Liquidators.

152—153. Provides for arrangements between a Company and its creditors not being affected by winding up; subject (153) to appeal on part of creditor.

154—155. Authorizes Liquidators to apply to Court; and (155) to summons General Meetings, and General Meeting must be summoned at end of year.

156—157. Provides for filling up vacancy in case of death, &c., of one Liquidator; and (157) in case of no Liquidator, and for renewing Liquidators.

158-159. Directs Liquidator to make up an account, when winding up is completed; and (159) make a return to the Registrar.

160. Makes the costs, &c., of winding up payable out of assets of the Company.

161—162. Saves right of any creditor to have the Company wound up by the Court if necessary for interests of creditor; and (162) Court may, in such case, adopt, as far as it deems right, proceedings under previous voluntary winding up.

Winding up subject to supervision of the Court, 163—168.

163—164. Court may on petition make order for voluntary winding up subject to supervision of the Court, &c.; such petition (164) to have what effect.

165—167. Empowers Court, in making its orders, to have regard to the wishes of creditors and contributories; and (166) to appoint additional Liquidators; whose powers (167) shall be such as are defined by the Court.

168. If order for voluntary winding up is superseded by order for compulsory winding up, Court may appoint Official Liquidators, &c.

Supplemental Provisions, 169—188.

169. As to dispositions of property, &c., made between the commencement of the winding up and the order for winding up.

170. Makes the books, &c., of the Company and of the Liquidators *primâ facie* evidence as between the contributories.

171. Makes provision as to the disposal of the books, &c., of the Company and Liquidators.

172. Entitles creditors and contributories to inspection of books, &c.

173—175. Gives Liquidators special powers to pay classes of creditors in full, and make compromises with creditors, &c.; and (174) with contributories; and (175) to receive payments in shares, &c., on sale of business or property of Company.

176. The price to be paid for the interest of dissentient member to be determined by agreement, or in case of disputes by arbitration.

177—182. Provides for the appointment of arbitrator; and (178) appointment of new arbitrators on specified cases; and (179) of umpire; and (180) their powers; and (181) for the costs of the arbitration; and (182) for filing the submission in Civil Court.

183. Stops execution of process against the effects of the Company after order for winding up.

184. Extends the doctrine of fraudulent preference in Insolvency to windings up of Companies.

185. Gives the Court power of proceeding summarily against Directors, Managers, and Liquidators in respect of their accountability for monies, &c.

186—188. Establishes penalty of imprisonment and fine against any Director, Officer, or Contributory, for offence of destroying, &c., altering, &c., books, &c.; and (187) authorizes criminal prosecution of Directors, &c.; and (188) provides a penalty for intentionally giving false evidence upon any examination, &c.

Power of High Court to make Rules, 189.

189. Empowers the High Court to make Rules of Procedure for winding up, consistent with the Act and the Code of Civil Procedure.

PART V.

Registration Office, 190.

190. Provides for the constitution of the Registration Office, the appointment of Registrars, &c., with duties and seal of Office, and establishes fees for inspection of Documents. Existing Officers, &c., to be Officers for registration of Companies.

PART VI.

Applications of Act to Companies registered under the Joint Stock Companies' Act, 191—193.

191—193. With the exception of Table A, this Act to apply to Companies formed and registered under Act XIX, 1857, and Act VII, 1860; and (192) to Companies registered but not formed under those Acts; and (193) authorizes Companies registered under those Acts to continue transfer of shares.

PART VII.

Companies authorized to register under this Act, 194—212.

194—195. Defines the Companies capable of being registered; and (195) the Companies not capable of being registered under this part of the Act.

196—198. Defines what shall be Joint Stock Companies; and (197) prescribes registrations for registering them; and (198) Regulations for registering Companies not being Joint Stock Companies; and (199) for the registration of capital stock on conversion of shares into stock.

200. Requires that the registered lists of shares, stock, &c. verified by declaration of Directors.

201. Empowers the Registrar to satisfy himself whether any Company is Joint Stock or not.

202. Requires existing Banking Companies to give notice to customers of Limited Liability before registration, and in default certificates of Registration to have no operation.

203. Exempts certain specified Companies from registration fees.

204. Limited Liability Companies to have the word Limited added to their name.

205—206. Directs the Registrar to issue Certificates of Registration on payment of fees, &c.; and (206) makes such Certificate conclusive evidence of fact of registration, &c.

207—209. Vests in the Registered Company all interest, &c., belonging to it, &c., before registration; without prejudice (208) to antecedent liabilities of the Company; and (209) authorizes the continuance of all suits, &c., by or against the Company, as before registration, &c.

210. Saves, after registration under this part of the Act, all the previously existing constitutional rules and interests of the Company, and extends to Company the provisions of this Act subject to certain further provisions.

211—212. Empowers the Court to restrain proceedings at law against the contributories or Company after petition for winding up; and (212) prohibits commencement of such proceedings after winding up order has been made.

PART VIII.

Application of Act to Unregistered Companies, 213—218.

213—216. Partnerships, except Railway Companies of more than seven persons, may be wound up under this Act as Unregistered Companies, according to the provisions of this Act, except as specified; and (214) in winding up such Companies, persons liable to pay or contribute, and their representatives are to be deemed contributories; and (215) after application for winding up Court may stay proceedings against the Company; and (216) after order no more proceedings to be taken.

217. Empowers Court to make order for vesting the property of such Company in Liquidator and for suing, &c., on behalf of Company.

218. Provisions in this part of Act, with respect to unregistered Company, to be deemed as in addition to, and not in restriction of, other winding-up provisions.

PART IX.

Repeal of Acts and Miscellaneous Provisions, 219—231.

219—222. Repeals Acts XLIII, 1850; XIX, 1857; and VII, 1860; save (220) as to Acts done under such Acts; as to incorporation of any Company; as to rights and liabilities; as to penalties, &c., and as to Table B in Schedule to Act XIX, 1857, &c.; and (221) as to existing proceedings for winding up; and (222) as to deeds, &c., made under repealed Act.

223—224. Requires Companies to register under this Act, whose duty it was to register under repealed Act, and have not done so; and (224) provides specified penal consequences on such Companies still making default.

225—226. Defines the limits of Magistrates' jurisdiction over offences against this Act, &c.; and (226) gives summary jurisdiction to Magistrates in Presidency Towns.

227—229. Provides remedy for fines by distress, &c.

230. Construes the words "Registrar of Joint Stock Companies" in Act XXI, 1860, Sections 1—18.

231. Saves Banks of Bengal and Bombay from operation the Act except as provided in Section 125.

FIRST SCHEDULE.

TABLE A. *Regulations* for Management of a Company *Limited* by Shares. As to Shares; *Calls* on Shares. Transfer of Shares. *Transmission* of Shares. Forfeiture of *Shares*. Conversion of Shares into *Stock*. Increase in Capital General *Meetings*. Proceedings at General Meetings. *Votes* of Members. Directors. Powers of *Directors*. Disqualification of Directors. *Rotation* of Directors. Proceedings of Directors. *Dividends*. Accounts. Audit. Notices. Form of Balance Sheet.

TABLE B. *Fees* to be paid to the Registrar of a Company having capital divided into Shares. TABLE C. *Ditto by a* Company not having a capital *divided* into Shares.

FORM D. *Form* of Statement referred to in Part III of Act.

SECOND SCHEDULE.

FORM A. *Memorandum* of association of Company Limited by Shares. FORM B. *Ditto* of a Company limited *by guarantee*, and not having Shares. Articles of Association to accompany preceding memorandum of Association. *Definition* of Members. General *Meetings*. Proceedings at General Meetings. *Votes* of Members. *Powers* of Directors. *Election* of Directors. Business of *Company*. *Accounts*. *Notices*. *Winding up*.

FORM C. *Ditto* of Company Limited *by guarantee*, and having a capital *divided* into Shares.

FORM D.(a) Memorandum and Articles of Association of an unlimited Company having a capital divided into Shares.

FORM E. As required by second part of Act.

THIRD SCHEDULE.

Acts repealed by Act XLIII., 1850; XIX., 1857; VII., 1860.

Preamble.

Whereas it is expedient that the laws relating to the incorporation, regulation and winding-up of Trading Companies and other Associations should be consolidated and amended; It is enacted as follows:—

Preliminary.

Short Title.

I. This Act may be cited for all purposes as "The Indian Companies' Act, 1866."

Commencement of Act.

II. This Act shall come into operation on the first day of May 1866, and the time at which it so comes into operation is hereinafter referred to as the commencement of this Act.

Interpretation clause.

III. In this Act, unless there be something repugnant in the subject or context—

"British India."

"British India" means the Territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., Cap. 106, entitled "An Act for the better Government of India:"

"Year." "Month."

"Year" and "month" respectively denote a year and month reckoned according to the British calendar:

"Insurance Company."

An "Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses;

"Court."

"Court" means the principal Civil Court of original jurisdiction in a District, and includes the High Court in the exercise of its ordinary original Civil jurisdiction;

"District Court."

"District Court" means the principal Civil Court of original jurisdiction in a District, but does not include the High Court in the exercise of its ordinary original Civil jurisdiction;

(a). The description "Form D" is omitted in the Act in which after Form C. comes Form E.

And, in any part of British India in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such part and includes a Chief Commissioner; and "High Court" denotes the highest Civil Court of appeal therein.

"Local Government." "High Court."

IV. No Company, Association or Partnership consisting of more than ten persons shall be formed, after the commencement of this Act, for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General of India in Council, or by Royal Charter or Letters Patent; and no Company, Association or Partnership consisting of more than twenty persons shall be formed, after the commencement of this Act, for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

Prohibition of partnerships exceeding certain number.

V. This Act is divided into nine Parts relating to the following subject-matters:—

Division of Act.

The first Part—to the constitution and incorporation of Companies and Associations under this Act:

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act:

The third Part—to the management and administration of Companies and Associations under this Act:

The fourth Part—to the winding-up of Companies and Associations under this Act:

The fifth Part—to the Registration Office:

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Com-*

panies to be formed on the principle of limited liability, or either of them:

The seventh Part—to Companies authorized to register under this Act:

The eighth Part—to the application of this Act to unregistered Companies:

The ninth Part—to repeal of Acts.

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Memorandum of Association.

Mode of forming Company.

VI. Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association, and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

Mode of limiting liability of members.

VII. The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Memorandum of association of a Company limited by shares.

VIII. Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established:

(4.) A declaration that the liability of the members is limited:

(5.) The amount of capital with which the Company proposes to be registered divided into shares of a a certain fixed amount,

Subject to the following regulations:—

(1.) That no subscriber shall take less than one share.

(2.) That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

Memorandum of association of a Company limited by guarantee.

IX. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up, hereinafter referred to as a Company limited by guarantee, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company, with the addition of the word "limited" as the last word in such name:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established:

(4.) A declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

Memorandum of association of an unlimited Company.

X. Where a Company is formed on the principle of having no limit placed on the liability of its members, hereinafter referred to as an Unlimited Company, the memorandum of association shall contain the following things; (that is to say)—

(1.) The name of the proposed Company:

(2.) The part of British India in which the registered Office of the Company is proposed to be situate:

(3.) The objects for which the proposed Company is to be established.

Stamp, signature, and effect of memorandum of association.

XI. The memorandum of association shall bear the same stamp as if it were a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained on the part of himself, his heirs, executors and administrators, a covenant to observe all the conditions of such memorandum, subject to the provisions of this Act.

Power of certain Companies to alter memorandum of association.

XII. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by Special Resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid-up shares into stock, but, save as aforesaid, and save as hereinafter provided in the case of a change of name, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

Power of Companies to change name.

XIII. Any Company under this Act, with the sanction of a Special Resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the

Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

Articles of Association.

Regulations to be prescribed by Articles of Association.

XIV. The memorandum of association may, in the case of a Company limited by shares, and shall in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by Articles of Association signed by the subscribers to the memorandum of association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient. The Articles shall be expressed in separate paragraphs, numbered arthmetically: They may adopt all or any of the provisions contained in the Table marked A in the first Schedule hereto: They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company proposes to be registered; and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration. In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

Application of Table A.

XV. In the case of a Company limited by shares, if the memorandum of association is not accompanied by Articles of Association, or, in so far as the Articles do not exclude or modify the regulations contained in the Table marked A in the first Schedule hereto, the last mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company in the same manner and to the same extent as if they

had been inserted in Articles of Association and the Articles had been duly registered.

Stamp, signature, and effect of Articles of Association.

XVI. The Articles of Association shall be printed, they shall bear the same stamp as if they were contained in a deed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in such Articles contained a covenant on the part of himself, his heirs, executors and administrators, to conform to all the regulations contained in such Articles, subject to the provisions of this Act. All monies payable by any member to the Company, in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

General Provisions.

Registration of memorandum of association and Articles of Association with fees as in Table B.

XVII. The memorandum of association and the Articles of Association, if any, shall be delivered to the Registrar of Joint Stock Companies hereinafter mentioned, who shall retain and register the same. There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the Table marked B in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the Table marked C in the first Schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General of India in Council may from time to time direct. All fees paid to the said Registrar in pursuance of this Act shall be accounted for to Government.

Effect of registration.

XVIII. Upon the registration of the memorandum of association and of the Articles of Association in cases where Articles of Association are

required by this Act, or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a Limited Company that the Company is limited; the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a Body Corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned. A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

Copies of memorandum and Articles to be given to members.

XIX. A copy of the memorandum of association having annexed thereto the Articles of Association, if any, shall be forwarded to every member at his request, on payment of the sum of one rupee, or such less sum as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and Articles of Association, if any, to a member in pursuance of this Section, the Company so making default shall for each offence incur a penalty not exceeding twenty rupees.

Prohibition against identity of names in Companies.

XX. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires. If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first mentioned Company

may, with the sanction of the Registrar, change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company, and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

PART II.

DISTRIBUTION OF CAPITAL AND LIABILITY OF MEMBERS OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Distribution of Capital.

Nature of interest in Company.

XXI. The shares or other interest of any member in a Company under this Act shall be moveable property capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

Definition of "Member."

XXII. The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the Register of Members hereinafter other person who has agreed to become a member of a Company under this Act, and whose name is entered on the Register of Members, shall be deemed to be a member of the Company.

Transfer by personal representative.

XXIII. Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall,

notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Register of Members.

XXIV. Every Company under this Act shall cause to be kept in one or more books a Register of its members, and there shall be entered therein the following particulars:

(1.) The names and addresses, and the occupations, if any, of the members of the Company with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number; and of the amount paid or agreed to be considered as paid on the shares of each member:

(2.) The date at which the name of any person was entered in the Register as a member:

(3.) The date at which any person ceased to be a member.

Any Company acting in contravention of this Section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this Section continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such contravention shall incur the like penalty.

Annual list of members.

XXV. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the Ordinary General Meeting, or if there is more than one Ordinary Meeting in each year the first of such Ordinary General Meetings is held, are members of the Company. Such list shall state the names, addresses, and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

(1.) The amount of the capital of the Company and the number of shares into which it is divided:

(2.) The number of shares taken from the commencement of the Company up to the date of the summary:

(3.) The amount of calls made on each share :

(4.) The total amount of calls received :

(5.) The total amount of calls unpaid :

(6.) The total amount of shares forfeited :

(7.) The names, addresses and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the Register, and shall be completed within seven days after such fourteenth day as is mentioned in this Section, and a copy shall forthwith be forwarded to the Registrar of Joint Stock Companies.

Penalty on Company, &c. not keeping a proper Register.

XXVI. If any Company under this Act and having a capital divided into shares makes default in Complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Company to give notice of consolidation or of conversion of capital into stock.

XXVII. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall within fifteen days of such consolidation, division or conversion, give notice to the Registrar of Joint Stock Companies of the same, specifying the shares so consolidated, divided or converted.

Effect of conversion of shares into stock.

XXVIII. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock, and given notice of such conversion to the Registrar, all the provisions of this Act which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the Register of Members hereby required to be

kept by the Company, and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list instead of the amount of shares and the particulars relating to shares hereinbefore required.

Entry of trusts on Register.

XXIX. No notice of any trust, express, implied or constructive, shall be entered on the Register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

Certificate of shares or stock.

XXX. A certificate under the common seal of the Company, specifying any share or shares or stock held by any member of a Company, shall be *primâ facie* evidence of the title of the member to the share or shares or stock therein specified.

Inspection of Register.

XXXI. The Register of Members, commencing from the date of the registration of the Company, shall be kept at the registered Office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in General Meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee or such less sum as the Company may prescribe for each inspection. Every such member or other person may require a copy of such Register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied. If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues. Every Director and Manager of the Company who shall knowingly authorize or permit such refusal shall incur the like penalty. In addition to the above penalty, any Judge of a High Court may by order compel an immediate inspection of the Register.

Power to close Register.

XXXII. Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the District in which the registered Office of the Company is situated, close the Register of Members for any time or times not exceeding in the whole thirty days in each year.

Notice of increase of capital and of members to be given to Registrar.

XXXIII. Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and, where a Company has not a capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital within fifteen days from the date of the passing of the Resolution by which such increase has been authorized, and in the case of an increase of members within fifteen days from the time at which such increase of members has been resolved on or has taken place, and the Registrar shall forthwith record the amount of such increase of capital or members. If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day during which such neglect to give notice continues, and every Director and Manager of the Company, who shall knowingly and wilfully authorize or permit such default, shall incur the like penalty.

Remedy for improper entry or omission of entry in Register.

XXXIV. If the name of any person is without sufficient cause entered in, or omitted from, the Register of Members of any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the Register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original Civil jurisdiction in the District or place in which the registered Office of the Company is situate, apply for an order of the Court that the Register may be rectified;

and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the Register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained. The Court may in any proceeding under this Section decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the Register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the Register; provided that the Court may direct an issue to be tried in which any question of law may be raised, and an appeal in the manner directed by the Code of Civil Procedure shall lie.

Notice to Registrar of rectification of Register.

XXXV. Whenever any order has been made for rectifying the Register in the case of a Company hereby required to send a list of its members to the the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

Register to be evidence.

XXXVI. The Register of Members shall be *primâ facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Liability of Members.

Liability of present and past members of Company.

XXXVII. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company, and the costs, charges and expenses of the winding-up and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following; (that is to say)—

(1.) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period

of one year or upwards prior to the commencement of the winding-up:

(2.) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

(3.) No past member shall be liable to contribute to the assets of the Company, unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(4.) In the case of a Company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(5.) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association:

(6.) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract, whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract:

(7.) No sum due to any member of a Company in his character of a member by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

PART III.

Management and Administration of Companies and Associations under this Act.

Provisions for Protection of Creditors.

Registered Office of Company.

XXXVIII. Every Company under this Act shall have a registered Office to which all communications and notices may be addressed. If

any Company under this Act carries on business without having such an Office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried on.

Notice of situation of registered Office.

XXXIX. Notice of the situation of such registered Office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered Office.

Publication of name by a Limited Company.

XL. Every Limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every Office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible in the English language, and also, if the registered Office be situate in a District beyond the local limits of the ordinary original Civil jurisdiction of a High Court, in one of the vernacular languages used in such District, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements and other official publications of such Company, and in all Bills of Exchange, Hundís, Promissory Notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts and letters of credit of the Company.

Penalties on non-publication of name.

XLI. If any Limited Company under this Act does not paint or affix and keep painted or affixed its name, in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed. Every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to the like penalty. If any Director, Manager or Officer of such Company, or any person on its behalf, uses or authorizes the use of any seal pur-

porting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company, any Bill of Exchange, Hundí, Promissory Note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such Bill of Exchange, Hundí, Promissory Note, cheque or order for money or goods, for the amount thereof, unless the same is duly paid by the Company.

Contracts how made.

XLII. Contracts on behalf of any Company registered under this Act may be made as follows; (that is to say)—

(1.) Any contract which if made between private persons would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the Company in writing under the common seal of the Company, and such contract may be in the same manner varied or discharged:

(2.) Any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company, and such contract may in the same manner be varied or discharged:

(3.) Any contract which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company, and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors or administrators, as the case may be.

Register of mortgages.

XLIII. Every Limited Company under this Act shall keep a Register of all mortgages and charges specifically affecting property of the Company, and shall enter in such Register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge. If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every Director, Manager or other Officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees. The Register of mortgages required by this Section shall be open to inspection by any creditor or member of the Company at all reasonable times. If such inspection is refused, any Officer of the Company refusing the same, and every Director and Manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues. In addition to the above penalty any Judge of the High Court may by order compel an immediate inspection of the Register.

Certain Companies to publish statement entered in Schedule.

XLIV. Every Limited Banking Company and every Insurance Company, and Deposit, Provident or Benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first Monday in August in every year during which it carries on business, make a statement in the form marked D in the first Schedule hereto, or as near thereto as circumstances will admit, and a copy of such statement shall be put up in a conspicuous place in the registered Office of the Company and in every branch Office or place where the business of the Company is carried on. If default is made in compliance with the provisions of this Section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues, and every Director and Manager of the Company who shall

knowingly and wilfully authorize or permit such default shall incur the like penalty.

Every member and every creditor of any Company mentioned in this Section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

List of Directors to be sent to Registrar.

XLV. Every Company under this Act and not having a capital divided into shares shall keep at its registered Office a Register containing the names and addresses and the occupations of its Directors or Managers, and shall send to the Registrar of Joint Stock Companies a copy of such Register, and shall from time to time notify to the Registrar any change that takes place in such Directors or Managers.

Penalty on Company not keeping Register of Directors.

XLVI. If any Company under this Act and not having a capital divided into shares, makes default in keeping a Register of its Directors or Managers, or in sending a copy of such Register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such Directors or Managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues, and every Director or Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Promissory Notes, Bills of Exchange and Hundís.

XLVII. A Promissory Note, Bill of Exchange or Hundí shall be deemed to have been made, accepted, or endorsed on behalf of any Company under this Act, if made, accepted, or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, accepted, or endorsed by or on behalf or on account of the Company, by any person acting under the authority of the Company.

Prohibition against carrying on business with less than seven members.

XLVIII. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every

person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

Provisions for Protection of Members.

General Meeting of Company. Balance-Sheet.

XLIX. A General Meeting of every Company under this Act shall be held once at the least in every year. A balance-sheet shall be made out in every year, and laid before the Company in General Meeting and filed with the Registrar of Joint Stock Companies, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table A in the first Schedule hereto, or as near thereto as circumstances admit. And once at the least in every year the accounts of the Company shall be examined and the correctness of the balance-sheet ascertained by one or more auditor or auditors. If default is made in compliance with any of the provisions of this Section, every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall be liable to a penalty of one thousand rupees.

Audit.

Power to alter regulations by Special Resolution.

L. Subject to the provisions of this Act, and to the conditions contained in the Memorandum of Association, any Company formed under this Act may, in General Meeting, from time to time, by passing a Special Resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the Articles of Association, or in the Table marked A in the first Schedule where such Table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company. Any regulations so made by Special Resolution shall be deemed to be

regulations of the Company of the same validity as if they had been originally contained in the Articles of Association, and shall be subject in like manner to be altered or modified by any subsequent Special Resolution.

Definition of Special Resolution.

LI. A Resolution passed by a Company under this Act shall be deemed to be special, whenever a Resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed), at any General Meeting of which notice specifying the intention to propose such Resolution has been duly given, and such Resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent General Meeting of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such Resolution was first passed. At any meeting mentioned in this Section, unless a poll is demanded by at least five members, a declaration of the Chairman that the Resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same. Notice of any meeting shall, for the purposes of this Section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company. In computing the majority under this Section, when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

Provision where no regulations as to meetings.

LII. In default of any regulations as to voting, every member shall have one vote, and in default of any regulations as to summoning General Meetings, a meeting shall be held to be

duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the Table marked A in the first Schedule hereto. In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and in default of any regulations as to who is to be Chairman of such meeting, it shall be competent for any person elected by the members present to preside.

Registry of Special Resolutions.

LIII. A copy of every Special Resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of Joint Stock Companies, and be recorded by him. If such copy is not so forwarded within fifteen days from the date of the confirmation of the Resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded, and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Copies of Special Resolutions

LIV. Where Articles of Association have been registered, a copy of every Special Resolution for the time being in force shall be annexed to or embodied in every copy of the Articles of Association that may be issued after the passing of such Resolution. Where no Articles of Association have been registered, a copy of every Special Resolution shall be forwarded in print to any member requesting the same, on payment of one rupee or such less sum as the Company may direct. If any Company makes default in complying with the provisions of this Section, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made ; and every Director and Manager of the Company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Execution of deeds abroad.

LV. Any Company under this Act may, by instrument in writing under its common seal, empower any person either generally or in respect of

any specified matters, as its Attorney, to execute deeds on its behalf in any place not situate in British India ; and every deed signed by such Attorney on behalf of the Company and under his seal, shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

Examination of affairs of Company by Inspectors.

LVI. The Local Government may appoint one or more competent Inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following ; (that is to say)—

(1.) In the case of a Banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued :

(2.) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the Register of the Company as members.

Application for inspection to be supported by evidence.

LVII. The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same. The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any Inspector or Inspectors.

Inspection of books.

LVIII. It shall be the duty of all Officers and Agents of the Company to produce for the examination of the Inspectors all books and documents in their custody or power. Any Inspector may examine upon oath or affirmation the Officers and Agents of the Company in relation to its business, and may administer such oath or affirmation accordingly. If any such Officer or Agent refuses to produce any book or document hereby directed to be produced, or to an-

swer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each offence.

Result of examination how dealt with.

LIX. Upon the conclusion of the examination, the Inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs. A copy shall be forwarded by the Local Government to the registered Office of the Company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the Inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

Power of Company to appoint Inspectors.

LX. Any Company under this Act may, by a Special Resolution, appoint Inspectors for the purpose of examining into the affairs of the Company. The Inspectors so appointed shall have the same powers and perform the same duties as Inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in General Meeting directs. The Officers and Agents of the Company shall incur the same penalties, in case of any refusal to produce any book or document hereby required to be produced to such Inspectors or to answer any question, as they would have incurred if such Inspectors had been appointed by the Local Government.

Report of Inspectors to be evidence.

LXI. A copy of the report of any Inspectors appointed under this Act, authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the Inspectors in relation to any matter contained in such report.

Notices.

Service of notices on Company.

LXII. Any summons, notice, order or other document required to be served upon the Company, may be served by leaving the same, or sending it through the Post by a registered letter addressed to the Company, at their registered Office; and any notice to the Registrar of Joint Stock Companies may be served by sending it to him through the Post by a registered letter, or by delivering it to him, or by leaving it for him at his Office.

Rules as to notices by letters.

LXIII. Every document to be served by Post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the Post Office.

Authentication of notices by Company.

LXIV. Any summons, notice, order or proceeding requiring authentication by the Company, may be signed by any Director, Secretary, or other authorized Officer of the Company, and need not be under the common seal of the Company, and the same may be in writing or in print, or partly in writing and partly in print.

Legal Proceedings.

Evidence of proceedings at meetings.

LXV. Every Company under this Act shall cause Minutes of all Resolutions and proceedings of General Meetings of the Company, and of the Directors or Managers of the Company in cases where there are Directors or Managers, to be duly entered in books to be from time to time provided for the purpose; and any such Minute as aforesaid, if purporting to be signed by the Chairman of the meeting at which such Resolutions were passed or proceedings had, or by the Chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings. Until the contrary is proved, every General Meeting of the Company or meeting of Directors or Managers in respect of the proceedings of which Minute have been so made shall be deemed to have been

duly held and convened, and all Resolutions passed thereat or proceedings had, to have been duly passed and had, and all appointments of Directors, Managers or Liquidators shall be deemed to be valid, and all acts done by such Directors, Managers or Liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Provision as to costs in suits brought by certain Limited Companies.

LXVI. Where a Limited Company is plaintiff in any suit, any Judge having jurisdiction in the matter may, if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Plaint in suits against members.

LXVII. In any suit brought by the Company against any member to recover any call or other monies due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

Alteration of Forms.

Governor-General in Council may alter forms in Schedule.

LXVIII. The forms set forth in the second Schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer. The Governor-General of India in Council may from time to time make such alterations in the Tables and Forms contained in the first Schedule hereto, so that he does not increase the amount of fees payable to the Registrar in the said Schedule mentioned, and in the forms in the second Schedule, or make such additions to the last mentioned forms, as he deems requisite. Any such Table or form, when altered, shall be published in the Gazette of India, and upon such publication being made, such Table or Form shall have the same force as if it were included in the Schedule to

this Act, but no alteration made by the Governor-General of India in Council in the Table marked A contained in the first Schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such Table.

Arbitrations.

Power for Companies to refer matters to arbitration.

LXIX. Any Company under this Act may from time to time, by writing under its common seal, agree to refer and may refer to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the Directors or other managing body of such Companies.

Power to alter or revoke agreements for reference.

LXX. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions or stipulations thereof.

Agreements to be carried into effect.

LXXI. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

Reference to Arbitrator.

LXXII. Where the Companies agree, the reference shall be made to a single Arbitrator.

Reference to two or more Arbitrators.

LXXIII. Except where the Companies agree that the reference shall be made to a single Arbitrator, the reference shall be made as follows; to wit—

Where there are two Companies, the reference shall be made to two Arbitrators:

Where there are three or more Companies, the reference shall be made to so many Arbitrators as there are Companies.

Appointment of Arbitrators by Companies.

LXXIV. Where there are to be two or more Arbitrators, every Company shall by writing under their common seal appoint one of the Arbitrators, and shall give notice in writing thereof to the other Company or Companies.

Appointment of Arbitrators by Local Government.

LXXV. Where there are to be two or more Arbitrators, if any of the Companies fail to appoint an Arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an Arbitrator, may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of Arbitrators by Companies to supply vacancies.

LXXVI. When the reference is made to two or more Arbitrators, if before the matters referred to them are determined any Arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an Arbitrator in his place.

Appointment of Arbitrators by Local Government to supply vacancies.

LXXVII. Where the Company by which an Arbitrator ought to be appointed in the place of the Arbitrator so deceased, incapable, unfit or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an Arbitrator. The Arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of Arbitrator not revocable.

LXXVIII. When any appointment of an Arbitrator is made, the Company making the appointment shall have no power to revoke the

same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

Appointment of Umpire by Arbitrators.

LXXIX. Where two or more Arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their Umpire.

Appointment of Umpire by Local Government.

LXXX. If the Arbitrators do not appoint an Umpire within seven days after the reference is made to the Arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire; and the Umpire so appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators.

Appointment of Umpire by Arbitrators to supply vacancy.

LXXXI. Where two or more Arbitrators are appointed, if before the matters referred to them are determined their Umpire dies, or becomes incapable or unfit, or for seven consecutive days fails to act as Umpire, the Arbitrators shall by writing under their hands appoint an impartial and qualified person to be their Umpire in his place.

Appointment of Umpire by Local Government to supply vacancy.

LXXXII. If the Arbitrators fail to appoint an Umpire within seven days after notice in writing to them of the decease, incapacity, unfitness or failure to act of their Umpire, then, on the application of the Companies or any of them, the Local Government may appoint an Umpire. The Umpire so appointed shall for the purposes of this Act be deemed to be appointed by the Arbitrators so failing.

Succeeding Arbitrators and Umpires to have powers of predecessors.

LXXXIII. Every Arbitrator appointed in the place of a preceding Arbitrator, and every Umpire appointed in the place of a preceding Umpire, shall respectively have the like powers and authorities as his respective predecessor

Reference to Umpire.

LXXXIV. Where there are two or more Arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within

thirty days next after the reference is made to the Arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their Umpire.

Power for Arbitrators, &c., to call for books, &c., and administer oath.

LXXXV. The Arbitrator, and the Arbitrators, and the Umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the Arbitrator, or the Arbitrators, or the Umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath or affirmation, and may administer the requisite oath or affirmation.

Procedure in the arbitration.

LXXXVI. Except where and as the Companies otherwise agree, the Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Arbitration may proceed in absence of Companies.

LXXXVII. The Arbitrator, and the Arbitrators, and the Umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the Arbitrator, or the Arbitrators, or the Umpire shall think fit so to proceed.

Several awards may be made.

LXXXVIII. The Arbitrator, and the Arbitrators, and the Umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred. Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have deen specified in the agreement for arbitration, or in the event of no time having been so specified, for any time which the Arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

LXXXIX. The award of the Arbitrator, or of the Arbitrators, or of the Umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the Arbitrator, or the Arbitrators, or the Umpire, shall be binding and conclusive on all the Companies.

Awards made in due time to bind all parties.

XC. Provided always that (except where and as the Companies otherwise agree) the Umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

Power for Umpire to extend period for making his award.

XCI. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

Awards not to be set aside for informality.

XCII. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted or suffered, shall be done, omitted or suffered accordingly.

Awards to be obeyed.

XCIII. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations and awards in accordance with this Act; and the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

Agreements, arbitrations and awards to have effect.

XCIV. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award shall be in the discretion of the Arbitrator, and the Arbitrators, and the Umpire respectively.

Costs of arbitration and award.

XCV. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

Payment of costs.

XCVI. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Submission to arbitration to be filed in Court.

PART IV.

WINDING-UP OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

Preliminary.

XCVII. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

Meaning of contributory.

XCVIII. The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful in the case of the insolvency of any contributory to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

Nature of liability of contributory.

Contributories in case of death.

XCIX. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in a due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory, and such personal representatives, heirs and devisees shall be deemed to be contributories accordingly.

Contributories in case of insolvency.

C. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

Winding-up by Court.

Circumstances under which Company may be wound up by Court.

CI. A Company under this Act may be wound up by the Court as hereinafter defined, under the following circumstances; (that is to say)—

(1.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up by the Court:

(2.) Whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year:

(3.) Whenever the members are reduced in number to less than seven:

(4.) Whenever the Company is unable to pay its debts:

(5.) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up.

Company when deemed unable to pay its debts.

CII. A Company under this Act shall be deemed to be unable to pay its debts—

(1.) Whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred

rupees then due, has served on the Company, by leaving the same at its Office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor :

(2.) Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor, in any proceeding instituted by such creditor against the Company, is returned unsatisfied in whole or in part :

(3.) Whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

Definition of "the Court."

CIII. The expression "the Court," as used in this part of this Act, shall mean the principal Court having original Civil jurisdiction in the place in which the registered Office of the Company is situate; unless in the regulations for the management of the Company it shall be stipulated that the Company if wound up shall be wound up by the High Court of Judicature at Fort William, Madras or Bombay (as the case may be), or by the Chief Court of the Punjab, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original Civil jurisdiction.

Application for winding-up to be made by petition.

CIV. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories of the Company, or by all or any of the above parties, together or separately. Every order which may be made on any such petition shall operate in favor of all the creditors and all the contributories of the Company, in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

Commencement of winding-up by Court.

CV. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Court may grant injunction.

CVI. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit. The Court may also at any time after the presentation of such petition and before the first appointment of Liquidators, appoint provisionally an Official Liquidator of the estate and effects of the Company.

Course to be pursued by Court on hearing petition.

CVII. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

Suits to be stayed after order for winding-up.

CVIII. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Copy of order to be forwarded to Registrar.

CIX. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of Joint Stock Companies, who shall make a Minute thereof in his books relating to the Company.

Power of Court to stay proceedings.

CX. The Court may at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Effect of order on share-capital of Company limited by guarantee.

CXI. When an order has been made for winding-up a Company limited by guarantee and having a capital divided into shares, any share-capital that may not have been called up shall be

deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

Court may have regard to wishes of creditors or contributories.

CXII. The Court may, as to all matters relating to the winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard is to be had to the value of the debts due to each creditor, and in the case of contributories, to the number of votes conferred on such contributory by the regulations of the Company.

Official Liquidators.

Appointment of Official Liquidator.

CXIII. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court herein, there may be appointed a person or persons to be called an Official Liquidator or Official Liquidators. The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of Official Liquidator or Official Liquidators. In all cases, if more persons than one are appointed to the office of Official Liquidator, the Court shall declare whether any act hereby required or authorized to be done by the Official Liquidator is to be done by all or any one or more of such persons. The Court may also determine whether any, and what, security is to be given by any Official Liquidator on his appointment. If no Official Liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

Resignations, removals, filling up vacancies, and compensation.

CXIV. Any Official Liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an Official Liquidator appointed by the Court shall be filled by the Court. There shall be paid to the Official Liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and if more Liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

Style and duties of Official Liquidator.

CXV. The Official Liquidator or Liquidators shall be described by the style of the Official Liquidator or Official Liquidators of the particular Company in respect of which he is or they are appointed, and not by his or their individual name or names. He or they shall take into his or their custody, or under his or their control, all the property, effects and things in action to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

Powers of Official Liquidator.

CXVI. The Official Liquidator shall have power, with the sanction of the Court, to do the following things:—

(1.) To bring or defend any suit or prosecution, or other legal proceeding, Civil or Criminal, in the name and on behalf of the Company:

(2.) To carry on the business of the Company, so far as may be necessary for the beneficial winding-up of the same:

(3.) To sell the immoveable and moveable property, effects and things in action of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels:

(4.) To do all acts, and to execute, in the name and on behalf of the Company, all deeds receipts and other documents, and for that purpose to use, when necessary, the Company's seal:

(5.) To prove, rank, claim and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive

dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors:

(6.) To draw, accept, make and endorse any Bill of Exchange, Hundí or Promissory Note in the name and on behalf of the Company, also to raise upon the security of the assets of the Company from time to time any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such Bill of Exchange, Hundí or Promissory Note as aforesaid on behalf of the Company, shall have the same effect with respect to the liability of such Company as if such Bill or Note had been drawn, accepted, made or endorsed by or on behalf of such Company in the course of carrying on the business thereof:

(7.) To take out, if necessary, in his official name, letters of administration to any deceased contributory, and to do in his official name any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the Official Liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras and Bombay respectively:

(8.) To do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

Discretion of Official Liquidator.

CXVII. The Court may provide by any order that the Official Liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an Official Liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Appointment of Attorney or Vakeel to Official Liquidator.

CXVIII. The Official Liquidator may, with the sanction of the Court, appoint an Attorney or Vakeel to assist him in the performance of his duties.

Ordinary Powers of Court.

Collection and application of assets.

CXIX. As soon as may be after making an order for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the Register of Members in all cases where such rectification is required in pursuance of this Act, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities.

Provision as to representative contributories.

CXX. In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of or being liable to the debts of others.

Power of Court to require delivery of property.

CXXI. The Court may, at any time after making an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker or agent, or Officer of the Company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the Official Liquidator any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being, and to which the Company is *primâ facie* entitled.

Power of Court to order payment of debts by contributory.

CXXII. The Court may, at any time after making an order for winding-up the Company, make an order on any contributory for the time being settled on the list of contributories, directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company, exclusive of any monies which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made

or to be made by the Court in pursuance of this Part of this Act. The Court may, in making such order, when the Company is not limited, allow to such contributory by way of set-off any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits. Provided that when all the creditors of any Company, whether Limited or Unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

Power of Court to make calls.

CXXIII. The Court may, at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves. The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

Power of Court to order payment into Bank.

CXXIV. The Court may order any contributory, purchaser or other person from whom money is due to the Company, to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof respectively to the account of the Official Liquidator, instead of to the Official liquidator, and such order may be enforced in the same manner as if it had directed payment to the Official Liquidator.

Regulation of account with Court.

CXXV. All monies, bills, notes and other securities, paid and delivered into the Bank of Bengal, the Bank of Madras, or the Bank of

Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same, as the Court may direct.

Provision in case of representative contributory not paying monies ordered.

CXXVI. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereout of the monies due.

Order conclusive evidence.

CXXVII. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for oppealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are edue, and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsover.

Court may exclude creditors not proving within certain time.

CXXVIII. The Court may fix a certain day or certain days on or within which creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

Court to adjust rights of contributories.

CXXIX. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the the parties entitled thereto.

Court to order costs.

CXXX. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

Dissolution of Company.

CXXXI. When the affairs of ths Company have been completely wound up, the Court shall make an order that the Company be dissolved from the date of such order, and the Company shall be dissolved accordingly.

Registrar to make Minute of dissolution of Company.

CXXXII. Any order so made shall be reported by the Official Liquidator to the Registrar, who shall make a Minute accordingly in his Books of the dissolution of such Company.

Penalty on not reporting dissolution of Company.

CXXXIII. If the Official Liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

Extraordinary Powers of Court.

Power of Court to summon persons before it suspected of having property of Company.

CXXXIV. The Court may, after it has made an order for winding-up the Company, summon before it any Officer of the Company or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate or effects of the Company. The Court may require any such Officer or person to produce any documents in his custody or power relating to the Company. If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

Examination of parties by Court.

CXXXV. The Court may examine upon oath or affirmation, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid, concerning the affairs, dealings, estate or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Power to arrest contributory about to abscond or to remove or conceal any of his property.

CXXXVI. The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels, to be seized, and him and them to be safely kept until such time as the Court may order.

Powers of Court cumulative.

CXXXVII. Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate, and such proceedings may be instituted accordingly.

Enforcement of and Appeal from Orders.

Power to enforce orders.

CXXXVIII. All orders, made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made in any Court to be enforced by other Courts.

CXXXIX. Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India other than that in which such Court

is situate, in the Court that would have had jurisdiction in respect of such Company if the registered Office of the Company had been situate in such other part, and in the same manner in all respects as if such order had been made by the Court that is hereby required to enforce the same.

Mode of dealing with orders to be enforced by other Courts.

CXL. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper Officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made, and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

Appeals from orders.

CXLI. Re-hearings of and appeals from any order or decision made or given in the matter of the winding-up of a Company by the Court, may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil procedure, unless such time is extended by the Court of Appeal.

Judicial notice to be taken of signature of Officers.

CXLII. In all proceedings under this Part of this Act, every Court, Judge, and person judicially acting and all other Officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any Officer of any other Court, and also of the Official seal of any other Court when such seal is appended to any document made, issued, or signed under the provisions of this Part of the Act, or any official copy thereof.

Special Commissioners for receiving evidence.

CXLIII. The Judges of the District Courts who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any Company is wound up in a High Court, and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company. Every such Commissioner shall, in addition to any power of summoning and examining witnesses, and requiring the production or delivery of documents, and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses and requiring the production or delivery of documents and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

Affidavits, &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person.

CXLIV. If any affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any Colony, Island, Plantation or place under the dominion of Her Majesty in foreign parts, before any Court, Judge or person lawfully authorized to take and receive affidavits, affirmations or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended or subscribed to any such affidavit, affirmation or

declaration, or to any other document to be used for the purposes of this Part of this Act.

Voluntary Winding-up of Company.

Circumstances under which Company may be wound up voluntarily.

CXLV. A Company under this Act may be wound up voluntarily:

(1.) Whenever the period, if any, fixed for the duration of the Company by the Articles of Association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the Articles of Association that the Company is to be dissolved, and the Company in General Meeting has passed a Resolution requiring the Company to be wound up voluntarily:

(2.) Whenever the Company has passed a Special Resolution requiring the Company to be wound up voluntarily:

(3.) Whenever the Company has passed an Extraordinary Resolution to the effect that it has been proved to their satisfaction that the Company cannot by reason of its liabilities continue its business, and that it is advisable to wind up the same:

For the purposes of this Act any Resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a Special Resolution as hereinbefore defined.

Commencement of voluntary winding-up.

CXLVI. A voluntary winding-up shall be deemed to commence at the time of the passing of the Resolution authorizing such winding-up.

Effect of voluntary winding-up on status of Company.

CXLVII. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all transfers of shares except transfers made to or with the sanction of the Liquidators, or alteration in the status of the members of the Company taking place after the commencement of such winding-up, shall be void, but its corporate state and all its corporate powers shall, notwithstanding it is otherwise provided by its regulations, continue until the affairs of the Company are wound up.

Notice of Resolution to wind up voluntarily.

CXLVIII. Notice of any Special Resolution or Extraordinary Resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local Official Gazette and also in some newspaper (if any) circulating in the place where the registered Office of the Company is situate.

Consequence of voluntary winding-up.

CXLIX. The following consequences shall ensue upon the voluntary winding-up of a Company:—

(1.) The property of the Company shall be applied in satisfaction of its liabilities *pari passu*, and subject thereto shall, unless it be otherwise provided by the regulations of the Company, be distributed amongst the members according to their rights and interests in the Company:

(2.) Liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the property:

(3.) The Company in General Meeting shall appoint such persons or person as it thinks fit to be Liquidators or a Liquidator, and may fix the remuneration to be paid to them or him:

(4.) If one person only is appointed, all the provisions herein contained in reference to several Liquidators shall apply to him:

(5.) Upon the appointment of Liquidators, all the powers of the Directors shall cease, except in so far as the Company in General Meeting or the Liquidators may sanction the continuance of such powers:

(6.) When several Liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two:

(7.) The Liquidators may, without the sanction of the Court, exercise all powers by this Act given to the Official Liquidators:

(8.) The Liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the

Company, and any list so settled shall be *primâ facie* evidence of the liability of the persons named therein to be contributories:

(9.) The Liquidators may at any time after the passing of the Resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves, and the Liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(10.) The Liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

Effect of winding-up on share-capital of Company limited by guarantee.

CL. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Liquidators.

Power of Company to delegate authority to appoint Liquidators.

CLI. A Company about to be wound up voluntarily or in the course of being wound up voluntarily may, by an Extraordinary Resolution, delegate to its creditors, or to any Committee of its creditors, the power of appointing Liquidators or any of them, and supplying any vacancies in the appointment of Liquidators, or may by a like Resolution enter into any arrangement with respect to the powers to be exercised by the Liquidators and the manner in which they are to be exercised. Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

Arrangement when binding on creditors.

CLII. Any arrangement which a Company about to be wound up voluntarily or in the course of being wound up voluntarily shall have entered into with its creditors, shall be binding on the Company if sanctioned by an Extraordinary Resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.

Power of creditor or contributory to appeal.

CLIII. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary or confirm the same.

Power for Liquidators or contributories in voluntary winding-up to apply to Court.

CLIV. Where a Company is being wound up voluntarily, the Liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise as respects the enforcing of calls or in respect of any other matter all or any of the powers which the Court might exercise if the Company were being wound up by the Court. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power of Liquidators to call General Meeting.

CLV. Where a Company is being wound up voluntarily, the Liquidators may, from time to time during the continuance of such winding-up, summon General Meetings of the Company for the purpose of obtaining the sanction of the Company by Special Resolution or Extraordinary Resolution, or for any other purposes they think fit. In the event of the winding-up continuing for more than one year, the Liquidators shall summon a General Meeting of the Company at the end of the first year

and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings and the manner in which the winding-up has been conducted during the preceding year.

Power to fill up vacancy in office of Liquidators.

CLVI. If any vacancy occurs in the office of Liquidators appointed by the Company, by death, resignation or otherwise, the Company in General Meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy, and a General Meeting for the purpose of filling up such vacancy may be convened by the continuing Liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing Liquidator, if any, or by any contributory of the Company, be determined by the Court.

Power of Court to appoint Liquidators.

CLVII. If from any cause whatever there is no Liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a Liquidator or Liquidators. The Court may also, on due cause shown, remove any Liquidator, and appoint another Liquidator to act in the matter of a voluntary winding-up.

Liquidators on conclusion of winding-up to make up an account.

CLVIII. As soon as the affairs of the Company are fully wound up, the Liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of; and thereupon they shall call a General Meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the Liquidators. The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting, in the manner specified in Section 148.

Liquidators to report meeting to Registrar.

CLIX. The Liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held, and on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved. If the Liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

Costs of voluntary liquidation.

CLX. All costs, charges and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the Liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Saving of rights of creditors.

CLXI. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

CLXII. Where a Company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

Winding-up subject to the Supervision of the Court.

Power of Court, on application, to direct winding-up subject to supervision.

CLXIII. When a Resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up should continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

Petition for winding-up subject to supervision.

CLXIV. A petition praying wholly or in part that a voluntary winding-up should continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

Court may have regard to wishes of creditors.

CLXV. The Court may, in determining whether a Company is to be wound up altogether by the Court or subject to the supervision of the Court, in the appointment of a Liquidator or of Liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting, and to report the result of such meeting to the Court. In the case of creditors, regard shall be had to the value of the debts due to each creditor, and in the case of contributories to the number of votes conferred on each contributory by the regulations of the Company.

Power to Court to appoint additional Liquidators in winding-up subject to supervision.

CLXVI. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional Liquidator or Liquidators. Any Liquidators so appointed by the Court shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if they had been appointed by the Company. The Court may from time to time remove any Liquidators so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

Effect of order of Court for winding-up subject to supervision.

CLXVII. Where an order is made for a winding-up subject to the supervision of the Court, the Liquidators appointed to conduct such winding-up may, subject to any restrictions imposed

by the Court, exercise all their powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily. Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court, shall for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the Liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court. In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the Official Liquidators, the expression Official Liquidators shall be deemed to mean the Liquidators conducting the winding-up subject to the supervision of the Court.

Appointment in certain cases of voluntary Liquidators to office of Official Liquidators.

CLXVIII. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary Liquidators or any of them, either provisionally or permanently, and either with or without the addition of any other persons, to be Official Liquidators.

Supplemental Provisions.

Dispositions after the commencement of the winding-up avoided.

CLXIX. Where any Company is being wound up by the Court or subject to the supervision of the Court, all dispositions of the property, effects and things in action of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up shall, unless the Court otherwise orders, be void.

The books of the Company to be evidence.

CLXX. Where any Company is being wound up, all books, accounts and documents of the Company and of the Liquidators shall, as between

the contributories of the Company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

As to disposal of books, accounts and documents of the Company.

CLXXI. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the Company and of the Liquidators may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and where the Company has been wound up voluntarily, in such way as the Company by an Extraordinary Resolution directs. But after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the Liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them cannot be made forthcoming to any party or parties claiming to be interested therein.

Inspection of books.

CLXXII. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

General scheme of liquidation may be sanctioned.

CLXXIII. The Liquidators may, with the sanction of the Court, where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the Liquidators may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim, present or future, whereby the Company may be rendered liable.

Power to compromise.

CLXXIV. The Liquidators may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an Extraordinary Resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist, between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company; and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the Liquidators to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts or liabilities.

Power for Liquidators to accept shares, &c., as a consideration for sale of property of Company.

CLXXV. Where any Company is proposed to be or is in the course of being wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the Liquidators of the first mentioned Company may, with the sanction of a Special Resolution of the Company by whom they were appointed, conferring either a general authority on the Liquidators, or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale, shares, debentures, policies or other like interests in such other Company, for the purpose of distribution amongst the members of the Company being wound up, or may enter into any other arrangement whereby the members of the Company being wound up may, in lieu of receiving cash, shares, debentures, policies or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing Company, and any sale made or arrangement entered into by the Liquidators in pursuance of this Section shall be binding on the members of the Company being wound up; subject to this proviso that, if any member of the Company being wound up, who has

not voted in favour of the Special Resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such Special Resolution in writing addressed to the Liquidators or one of them, and left at the registered Office of the Company not later than seven days after the date of the meeting at which such Special Resolution was passed, such dissentient member may require the Liquidators to do one of the following things as the Liquidators may prefer; that is to say, either to abstain from carrying such Resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase-money to be paid before the Company is dissolved, and to be raised by the Liquidators in such manner as may be determined by Special Resolution. No Special Resolution shall be deemed invalid for the purposes of this Section by reason that it is passed antecedently to or concurrently with any Resolution for winding-up the Company, or for appointing Liquidators; but if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such Resolution shall not be of any validity unless it is sanctioned by the Court.

Mode of determining price.

CLXXVI. The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

Appointment of Arbitrator when questions are to be determined by arbitration.

CLXXVII. When any dispute so directed to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single Arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an Arbitrator to whom such dispute shall be referred. After any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation. If for the space

of fourteen days after any such dispute shall have arisen, and after a request in writing shall have been served by the one party or the other party to appoint an Arbitrator, such last mentioned party fail to appoint such Arbitrator, then upon such failure the party making the request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both parties, and such Arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single Arbitrator shall be final.

Vacancy of Arbitrator to be supplied.

CLXXVIII. If before the matters so referred shall be determined any Arbitrator appointed by either party die, or become incapable or refuse or for seven days neglect to act as Arbitrator, the party by whom such Arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other Arbitrator may proceed *ex parte;* and every Arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former Arbitrator at the time of such his death, refusal or disability as aforesaid.

Appointment of Umpire.

CLXXIX. Where more than one Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an Umpire to decide on any such matters on which they shall differ. If such Umpire shall die, or refuse or for seven days neglect to act, they shall forthwith, after such death, refusal or neglect, appoint another Umpire in his place; and the decision of every such Umpire on the matters so referred to him shall be final.

Power of Arbitrators to call for books, &c.

CLXXX. The said Arbitrators or their Umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

CLXXXI. The costs of and attending every such arbitration to be determined by the Arbitrators shall be in the discretion of the Arbitrators or their Umpires, as the case may be.

Costs to be in the discretion of the Arbitrators.

CLXXXII. On the application of either of the parties the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Submission to arbitration may be filed in Court.

CLXXXIII. Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put in force against the estate or effects of the Company after the commencement of the winding-up shall be void.

Certain attachments, distresses and executions to be void.

CLXXXIV. Every conveyance, mortgage, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against any individual trader, be deemed in the event of his insolvency to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly. For the purposes of this Section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees for the benefit of all its creditors, shall be void.

Fraudulent preference.

Power of Court to assess damages against delinquent Directors and Officers.

CLXXXV. Where in the course of the winding-up of any Company under this Act, it appears that any past or present Director, Manager, Official or other Liquidator, or any Officer of such Company, has misapplied or retained in his own hands or become liable or accountable for any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any Liquidator, or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such Director, Manager or other Officer, and compel him to repay any monies so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust, as the Court thinks just.

Penalty on falsification of books.

CLXXXVI. If any Director, Officer or contributory of any Company wound up under this Act, destroys, mutilates, alters, falsifies or fraudulently secretes any books, papers, writings or securities, or makes or is privy to the making of any false or fraudulent entry in any Register, book of account or other document belonging to the Company with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment of either description as defined in the Indian Penal Code, for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

Prosecution of delinquent Directors in the case of winding-up by Court.

CLXXXVII. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present Director, Manager, Officer or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any

person interested in such winding-up or of its own motion, direct the Official Liquidators, or the Liquidators (as the case may be), to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

Penalty of false evidence.

CLXXXVIII. If any person, upon any examination upon oath or affirmation authorized under this Act, or in any affidavit, deposition or solemn affirmation in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall, upon conviction, be liable to imprisonment of either description as defined in the Indian Penal Code for a term which may extend to seven years and shall also be liable to fine.

Power of High Court to make Rules.

Power of High Court to make rules.

CLXXXIX. The High Court may make such rules concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, as may from time to time seem necessary and as may be consistent with the other provisions of this Act and with the Code of Civil Procedure. But until such rules are made, the general practice of the Court including the practice hitherto in use in winding-up Companies shall, so far as the same is applicable and not inconsistent with this Act, apply to all proceedings for winding-up a Company.

PART V.

Constitution of Registration Office.

CXC. The registration of Companies under this Act shall be conducted as follows; (that is to say)—

(1.) The Local Government may, after the sanction of the Governor-General of India in Council to the creation of any such Offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, Clerks and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure:

(2.) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks and servants as aforesaid:

(3.) The Local Government may from time to time determine the places at which Offices for the Registration of Companies are to be established, so that there be at all times maintained in each of the three Presidency Towns of Calcutta, Madras and Bombay at least one such Office, and that no Company shall be registered except at an Office within that part of British India in which by the memorandum of association the registered Office of the Company is declared to be established:

(4.) The Local Government may from time to time direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies:

(5.) Every person may inspect the documents kept by the Registrar of Joint Stock Companies. There shall be paid for such inspection such fees as may be appointed by the Local Government not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may appoint, not exceeding three rupees for the certificate of incorporation, and not exceeding two annas for each hundred words of such copy or extract:

(6.) The existing Registrar, Assistant Registrars, Clerks, and other Officers and servants in the Office for the registration of Joint Stock Companies shall, during the pleasure of the Local Government, hold the Offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government:

(7.) There shall be paid to any Registrar, Assistant Registrar, Clerk or servant that may hereafter be employed in the

registration of Joint Stock Companies, such salary as the Local Government may, with the sanction of the Governor-General of India in Council, direct:

(8.) Whenever any act is herein directed to be done to or by the Registrar of Joint Stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of Joint Stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But in the event of the Local Government altering the constitution of the existing Registry Office, such act shall be done to or by such Officer or Officers and at such place or places with reference to the local situation of the registered Offices of the Companies to be registered as the Local Government may appoint.

PART VI.

APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES' ACTS.

Application of Act to Companies formed under Act XIX of 1857 or VII of 1860.

CXCI. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first Schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860 or either of them, in the same manner in the case of a Limited Company as if such Company had been formed and registered under this Act as a Company limited by shares; and in the case of a Company other than a Limited Company, as if such Company had been formed and registered as an Unlimited Company under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by Special Resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in

the Table marked B annexed to Act No XIX of 1857, and shall also, in the case of an Unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares notwithstanding such regulations are contained in the memorandum of association.

Application of Act to Companies registered under Act XIX of 1857 or VII of 1860.

CXCII. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act, with this qualification, that wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

Mode of transferring shares.

CXCIII. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

PART VII.

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

Companies capable of being registered.

CXCIV. With the exceptions made in the next following Section and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament, or Act of the Governor-General of India in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an Unlimited Company, or a Company limited by shares, or a Company limited by guarantee,

and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Regulations as to registration of existing Companies.

CXCV. The following regulation shall be observed with respect to the registration of Companies under this Part of this Act: (that is to say)—

(1.) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act, or by Letters Patent, and not being a Joint Stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof:

(2.) No Company having the liablity of its members limited by Act of Parliament or Act of the Governor-General of India in Council other than this Act or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an Unlimited Company, or as a Company limited by guarantee:

(3.) No Life Assurance Company existing at the time of the commencement of this Act, and no Company that is not a Joint Stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares:

(4.) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present personally or by proxy in cases where proxies are allowed by the regulations of the Company, at some General Meeting summoned for the purpose:

(5.) Where a Company not having the liability of its members limited by Act of Parliament or Act of the Governor-General of India in Council, or by Letters Patent, is about to register as a Limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned General Meeting:

(6.) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a Resolution declaring that each member

undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges and expenses of winding-up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding a specified amount.

In computing any majority under this Section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

Definition of Joint Stock Company.

CXCVI. For the purposes of this Part of this Act so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a Joint Stock Company shall be deemed to be a Company having a permanent paid-up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company when registered with limited liability under this Act shall be deemed to be a Company limited by shares.

Requisitions for registration by Companies.

CXCVII. Previously to the registration, in pursuance of this Part of this Act, of any Joint Stock Company, there shall be delivered to the Registrar the following documents: (that is to say)—

(1.) A list showing the names, addresses and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number:

(2.) A copy of any Act of Parliament or Act of the Governor-General of India in Council, Royal Charter, Letters Pa-

tent, Deed of Settlement, Contract of Copartnery or other instrument constituting or regulating the Company :

(3.) If any such Joint Stock Company is intended to be registered as a Limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars ; (that is to say)—

The nominal capital of the Company and the number of shares into which it is divided :

The number of shares taken and the amount paid on each share :

The name of the Company, with the addition of the word "Limited" as the last word thereof:

With the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of the guarantee.

Requisitions for registration by existing Company not being a Joint Stock Company.

CXCVIII. Previously to the registration in pursuance of this Part of this Act of any Company not being a Joint Stock Company, there shall be delivered to the Registrar a list showing the names, addresses and occupations of the Directors or other Managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor-General of India in Council, Letters Patent, Deed of Settlement, Contract of Copartnery or other instrument constituting or regulating the Company, with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the Resolution declaring the amount of guarantee.

Power for existing Company to register amount of stock instead of shares.

CXCIX. Where a Joint Stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement not more than six clear days before the day of registration.

Authentication of statements of existing Companies.

CC. The lists of members and Directors and any other particulars relating to the Company hereby required to be delivered to the Registrar, shall be verified by declaration of the Directors of the Company delivering the same or any two of them, or of any two other principal Officers of the Company made before a Justice of the Peace or a District Judge.

Registrar may require evidence as to nature of Company.

CCI. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or not a Joint Stock Company as hereinbefore defined.

On registration of Banking Company with limited liability, notice to be given to customers.

CCII. Every Banking Company existing at the date of the passing of this Act which registers itself as a Limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and partnership firm having a banking account with the Company. Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the Post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company. In case the Company omits to give any such notice as is hereinbefore required to be given, then, as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Exemption of certain Companies from payment of fees.

CCIII. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a Limited Com-

pany, or where, previously to its being registered as a Limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor-General of India in Council, or by Letters Patent.

Company to change name.

CCIV. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "Limited."

Certificate of registration of existing Companies.

CCV. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the Tables marked B and C in the first Schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and in the case of a Limited Company, that it is limited, and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate to be evidence of compliance with Act.

CCVI. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with, and that the Company is authorized to be registered under this Act as a Limited or Unlimited Company, as the case may be, and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

Transfer of property to Company.

CCVII. All such property, moveable and immoveable, including all interests and rights in, to, and out of property, moveable and immoveable, and including obligations and things in action, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

CCVIII. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of such Company previously to such registration.

Registration under this Act not to affect obligations incurred previously to registration.

CCIX. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public Officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding up the Company.

Continuation of existing suits.

CCX. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company, including, in the case of a Company registered as a Company limited by guarantee, the Resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and Articles of Association; and all the provisions of this Act shall apply to such Company and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Act, subject to the provisions following; (that is to say),

Effect of registration under Act.

(1.) That Table A in the first Schedule of this Act shall not, unless adopted by Special Resolution, apply to any Com-

pany registered under this Act in pursuance of this Part thereof:

(2.) That the provisions of this Act relating to the numbering of shares shall not apply to any Joint Stock Company whose shares are not numbered:

(3.) That no Company shall have power to alter any provision contained in any Act of Parliament, Act of the Legislative Council or Act of the Governor-General of India in Council relating to the Company:

(4.) That no Company shall have power, without the sanction of the Governor-General of India in Council, to alter any provision contained in any Letters Patent relating to the Company:

(5.) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debt or liability; or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, or marriage of any such contributory being a female, the provisions hereinbefore contained with respect to the representatives, heirs and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, and to the husbands of married contributories, shall apply:

(6.) Nothing herein contained shall authorize any Company to alter any such provisions contained in any Deed of Settlement, Contract of Copartnery, Letters Patent or other instrument constituting or regulating the Company, as would, if such

Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor-General of India in Council, Deed of Settlement, Contract of Copartnery, Letters Patent, or other instrument constituting or regulating the Company.

Powers of Court to restrain further proceedings.

CCXI. The Court, may at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Order for winding-up Company.

CCXII. Where an order has been made for winding-up a Company registered in pursuance of this Part of the Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal proceeding shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

PART VIII.

APPLICATION OF ACT TO UNREGISTERED COMPANIES.

Winding-up of Unregistered Companies.

CCXIII. Subject as hereinafter mentioned any partnership, association or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor-General of India in Council,

consisting of more than seven members and not registered under this Act, and hereinafter included under the term Unregistered Company, may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions :—

(1.) An Unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate ; or if it has a principal place of busines situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an Unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall, for all the purposes of the winding-up of such Company, be deemed to be the registered Office of the Company :

(2.) No Unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3.) The circumstances under which an Unregistered Company may be wound up are as follows ; (that is to say) :—

(*a.*) Whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs ;

(*b.*) Whenever the Company is unable to pay its debts ;

(*c.*) Whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4.) An Unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts,

(*a.*) Whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company by leaving the same at the principal place of business of the Company or by delivering to the Secretary or some Director or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his

hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the satisfaction of the creditor :

(*b*.) Whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and, notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at the principal place of business of the Company, or by delivering it to the Secretary, or some Director, Manager or principal Officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not within ten days after service of such notice paid, secured or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same.

(*c*.) Whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company, is returned unsatisfied :

(*d*.) Whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

Who to be deemed a contributory in the event of Company being wound up.

CCXIV. In the event of an Unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges and expenses of winding-up the Company. Every such contributory shall be liable to contribute to the assets of the

Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

Power of Court to restrain further proceedings.

CCXV. The Court may at any time after the making of an application for winding-up an Unregistered Company, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Effect of order for winding-up Company.

CCXVI. Where an order has been made for winding-up an Unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Provision in case of Unregistered Company.

CCXVII. If any Unregistered Company has no power to sue and be sued in a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims and rights into and out of property moveable and immoveable, and including things in action, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company or any part of such property, is to vest in the Official Liquidator or Official Liquidators by his or their official name or names, and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the Official Liquidator or Official Liquidators may, in his

or their official name or names, or in such name or names and after giving such indemnity as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

Provisions of this Part of Act cumulative.

CCXVIII. The provisions made by this Part of the Act with respect to Unregistered Companies shall be deemed to be made in addition to and not in restriction of any provisions hereinbefore contained with respect of winding-up Companies by the Court. The Court or Official Liquidator may, in addition to any thing contained in this Part of the Act, exercise any powers or do any act in the case of Unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act; but an Unregistered Company shall not, except in the event of its being wound up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

PART IX.

Repeal of Acts and Miscellaneous Provisions.

Repeal of Acts.

CCXIX. After the commencement of this Act, there shall be repealed the several Acts specified in the third Schedule hereto.

Saving Clause as to repeal.

CCXX. No repeal hereby enacted shall affect—

(1.) Any thing duly done under any Acts hereby repealed:

(2.) The incorporation of any Company registered under any Act hereby repealed:

(3.) Any right or privilege acquired or liability incurred under any Act hereby repealed:

(4.) Any penalty, forfeiture or other punishment incurred in respect of any offence against any Act hereby repealed:

(5.) Table B in the Schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

Saving of existing proceedings for winding-up.

CCXXI. Where previously to the commencement of this Act an order has been made for winding-up a Company under any Acts or Act hereby repealed, or a Resolution has been passed for winding-up a Company voluntarily, such Company shall be wound up in the same manner and with the same incidents as if this Act were not passed, and for the purposes of such winding-up, such repealed Acts or Act shall be deemed to remain in full force.

Saving of Conveyance Deeds.

CCXXII. Where previously to the commencement of this Act any conveyance, mortgage or other deed has been made in pursuance of any Act hereby repealed, such deed shall be of the same force as if this Act had not passed, and for the purposes of such deed, such repealed Act shall be deemed to remain in full force.

Compulsory registration of certain Companies.

CCXXIII. Every Company required by any Act hereby repealed to register under the said Acts or either of them, and which has not so registered, shall, on or before the expiration of the thirty-first day from the commencement of this Act, register itself as a Company under this Act, in manner and subject to the regulations hereinbefore contained. No fees shall be charged in respect of the registration of any Company required to register by this Section.

Penalty on Company not registering.

CCXXIV. If any Company required by the last Section to register under this Act makes default in complying with the provisions thereof, then, from and after the day upon which such Company is required to register under this Act, until the day on which such Company is registered under this Act (which it is empowered to do at any time), the following consequences shall ensue, (that is to say)—

(1.) The Company shall be incapable of suing but shall not be incapable of being made a defendant to a suit:

(2.) No dividend shall be payable to any shareholder in such Company:

(3.) Each Director or Manager of the Company shall, for each day during which the Company so being in default carries on business, incur a penalty not exceeding one hundred rupees, and such penalty may be recovered by any person, whether a shareholder or not in the Company, and be applied by him to his own use.

Nevertheless, such default shall not render the Company so being in default illegal, nor subject it to any penalty or disability other than as specified in this Section, and registration under this Act shall cancel any penalty or forfeiture, and put an end to any disability which any Company may have incurred by reason of its not having registered under the said Act No. XIX of 1856.

Cognizance of offences under this Act.

CCXXV. All offences under this Act may be tried by any Officer exercising the powers of a Magistrate, unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences under this Act, committed within local limits of High Court.

CCXXVI. If any offence which by this Act is declared to be punishable by any penalty shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon summary conviction by any Magistrate of Police of the place at which such Court is held.

Levy of penalties by distress.

CCXXVII. All penalties imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the

offender's moveable property by warrant under the hand of the Officer imposing the penalty.

Procedure until return is made to distress warrant.

CCXXVIII. In case any such penalty shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if no sufficient distress.

CCXXIX. If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient moveable property whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of penalty.

Construction of "Registrar of Joint Stock Companies" in Act No. XXI of 1860.

CCXXX. In Sections 1 and 18 of Act No. XXI of 1860 *(for the registration of Literary, Scientific and Charitable Societies)*, the words "Registrar of Joint Stock Companies" shall be construed to mean Registrar of Joint Stock Companies under this Act or any Act for the time being in force.

Act not to apply to Banks of Bengal, Madras or Bombay.

CCXXXI. Save as provided in Section 125, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

FIRST SCHEDULE.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Shares.

(1.) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2.) Every member shall, on payment of eight annas or such less sum as the Company in General Meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3.) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in General Meeting may prescribe.

Calls on Shares.

(4.) The Directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call ; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Directors.

(5.) A call shall be deemed to have been made at the time when the Resolution of the Directors authorizing such call was passed.

(6.) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7.) The Directors may, if they think fit, receive from any member willing to advance the same all or any of the monies due upon the shares held by him beyond the sums actually called

for; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the Directors agree upon.

Transfers of Shares.

(8.) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the Register Book in respect thereof.

(9.) Shares in the Company shall be transferred in the following form:—

I, A B, of in consideration of the sum of rupees paid to me by C D of do hereby transfer to the said C D the share (or shares) numbered standing in my name in the books of the Company, to hold unto the said C D, his executors, adminstrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said C D, do hereby agreee to take the said share (or shares) subject to the same conditions. As witness our hands, the day of

(10.) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11.) The transfer books shall be closed during the fourteen days immediately preceding the Ordinary General Meeting in each year.

Transmission of Shares.

(12.) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his share.

(13.) Any person becoming entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may be

registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14.) Any person who has become entitled to a share in consequence of the death, bankruptcy or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15.) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16.) The instrument of transfer shall be presented to the Company, together with such evidence as the Directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

Forfeiture of Shares.

(17.) If any member fails to pay any call on the day appointed for payment thereof, the Directors may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him requiring him to pay such call, together with interest and any expenses that may have accrued by reason o such non-payment.

(18.) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered Office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19.) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter before payment of all calls, interest and expenses due in respect thereof has been made, be forfeited by a Resolution of the Directors to that effect.

(20.) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in General Meeting thinks fit.

(21.) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22.) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was made by a Resolution of the Directors to that effect, shall be sufficient evidence of the facts therein stated, as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to a purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23.) The Directors may, with the sanction of the Company previously given in General Meeting, convert any paid-up shares into stock.

(24.) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein or any part of such interests, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25.) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock, and such interests shall, in proportion to the amount thereof, confer on the holders thereof respectively, the same privileges and advantages for the purpose of voting at meetings of the Company

and for other purposes, as would have been conferred by shares of equal amount in the capital of the Company ; but so that none of such privileges or advantages, except the participation in the dividends and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

Increase in Capital.

(26.) The Directors may, with the sanction of a Special Resolution of the Company proviously given in General Meeting, increase its capital by the issue of new shares, such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in General Meeting directs, or, if no direction is given, as the Directors think expedient.

(27.) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled, and limiting a time within which the offer, if not accepted, will be deemed to be declined ; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the Directors may dispose of the same in such manner as they think most beneficial to the Company.

(28.) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

General Meetings.

(29.) The first General Meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the Directors may determine.

(30.) Subsequent General Meetings shall be held at such

time and place as may be prescribed by the Company in General Meeting ; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year, at such place as may be determined by the Directors.

(31.) The above-mentioned General Meetings shall be called Ordinary Meetings ; all other General Meetings shall be called Extraordinary.

(32.) The Directors may, whenever they think fit, and they shall upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an Extraordinary General Meeting.

(33.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(34.) Upon the receipt of such requisition, the Directors shall forthwith proceed to convene an Extraordinary General Meeting. If they do not preceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other members amounting to the required number, may themselves convene an Extraordinary General Meeting.

Proceedings at General Meetings.

(35.) Seven days' notice at the least, specifying the place the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(36.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(37.) No business shall be transacted at any General Meeting, except the declaration of a dividend, unless a quorum of members

is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows: that is to say, if the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38.) If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week, at the same time and place; and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die.*

(39.) The Chairman (if any) of the Board of Directors shall preside as Chairman at every General Meeting of the Company.

(40.) If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be Chairman.

(41.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such Resolution.

(43.) If a poll is demanded by five or more members, it shall be taken in such manner as the Chairman directs, and the result of such poll shall be deemed to be the Resolution of the Company in General Meeting. In the case of an equality of votes at any General Meeting the Chairman shall be entitled to a second or casting vote.

Votes of Members.

(44.) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(46.) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the Register of Members as one of the holders of such share or shares and no other, shall be entitled to vote in respect of the same.

(47.) No member shall be entitled to vote at any General Meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48.) Votes may be given either personally or by proxy.

(49.) The Instrument appointing a proxy shall be in writing, under the hand of the appointor, or if such appointor is a Corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50.) The instrument appointing a proxy shall be deposited at the registered Office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51.) Any instrument appointing a proxy shall be in the following form:—

Company Limited.

I of

being a member of the Company Limited, and entitled to vote or votes, hereby appoint of as my proxy, to vote for me and on my behalf at the (Ordinary *or* Extraordinary, *as the case may be*) General meeting of the Company to be held on the day of , and at any adjournment thereof (*or*, at any meeting of the Company that may be held in the year). As witness my hand, this day of

Signed by the said in the presence of

Directors.

(52.) The number of the Directors, and the names of the first Directors, shall be determined by the subscribers of the memorandum of association.

(53.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

(54.) The future remuneration of the Directors, and their remuneration for services performed previously to the first General Meeting, shall be determined by the Company in General Meeting.

Powers of Directors.

(55.) The business of the Company shall be managed by the Directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these Articles, required to be exercised by the Company in General Meeting, subject nevertheless to any regulations of these Articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

(56.) The continuing Directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57.) The Office of Director shall be vacated—

If he holds any other office or place of profit under the Company;

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the profits of any contract with the Company;

But the above rules shall be subject to the following ex-exceptions: That no Director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is Director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

Rotation of Directors.

(58.) At the first Ordinary Meeting after the registration of the Company, the whole of the Directors shall retire from office; and at the first Ordinary Meeting in every subsequent year, one-third of the Directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59.) The one-third or other nearest number to retire during the first and second years ensuing the first Ordinary Meeting of the Company shall, unless the Directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60.) A retiring Director shall be re-eligible.

(61.) The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62.) If at any meeting at which an election of Directors ought to take place the places of the vacating Directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place; and if at such adjourned meeting the places of the vacating Directors are not

filled up, the vacating Directors, or such of them as have not had their places filled up, shall continue in office until the Ordinary Meeting in the next year, and so on from time to time until their places are filled up.

(63.) The Company may from time to time, in General Meeting, increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64.) Any casual vacancy occurring in the Board of Directors may be filled up by the Directors, but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occurred.

(65.) The Company in General Meeting may, by a Special Resolution, remove any Director before the expiration of his period of office, and may by an Ordinary Resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66.) The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman shall have a second or casting vote. A Director may at any time summon a meeting of the Directors.

(67.) The Directors may elect a Chairman of their meetings, and determine the period for which he is to hold office; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the Directors present shall choose some one of their number to be Chairman of such meeting.

(68.) The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit. Any Committee so formed shall, in the

exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.

(69.) A Committee may elect a Chairman of its meetings. If no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting.

(70.) A Committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the Chairman shall have a second or casting vote.

(71.) All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

Dividends.

(72.) The Directors may, with the sanction of the Company in General Meeting, declare a dividend to be paid to the members in proportion to their shares.

(73.) No dividend shall be payable except out of the profits arising from the business of the Company.

(74.) The Directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the Directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75.) The Directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

(76.) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned;

and all dividends unclaimed for three years after having been declared, may be forfeited by the Directors for the benefit of the Company.

(77.) No dividend shall bear interest as against the Company.

Accounts.

(78.) The Directors shall cause true accounts to be kept,

Of the stock in trade of the Company;

Of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and

Of the credits and liabilities of the Company

The books of account shall be kept at the registered Office of the Company, and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in General Meeting, shall be open to the inspection of the members during the hours of business.

(79.) Once at the least in every year the Directors shall lay before the Company in General Meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80.) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81.) A balance-sheet shall be made out in every year and laid before the Company in General Meeting, and such balance-

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published
1	2	3	4	5	6	7
1885	III	Local Self-Government.	41	Directing that certain number of members of the Committees of the following Unions shall be appointed by the Commissioner of the Division (*contd.*) :—		
				RAJSHAHI DISTRICT —*concld.*		
				Puthia Union ...	2373, 23 9 1918, para. 2.	Vol. III, p. 1554.
				RANGPUR DISTRICT—		
				Annadanagar Union ...	968, 10 4 1917, para. 2.	Ditto, p. 1434.
				Badarganj ,, ...	2334, 21 9 1918	Ditto, p. 1644.
				Bajra ,, ...	116, 12 1 1918, para. 2.	Ditto, p. 1482.
				Bangram ,, ..	2629, 9 11 1918, para. 2.	Ditto, p. 1564.
				Barabila ,, ...	987, 10 3 1917, para. 2.	Ditto, p. 1432.
				Belgachia ,, ...	459, 31 5 1918, para. 2.	Ditto, p. 1495.
				Betgari ,, ...	974, 10 4 1917, para. 2.	Ditto, p. 1443.

(92.) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93.) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other Officer of the Company.

(94.) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs; and in case they have called for explanations or information from the Directors, whether such explanations or information have or has been given by the Directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the Directors, at the Ordinary Meeting.

Notices.

(95.) A notice may be served by the Company upon any member either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(96.) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the Register of Members; and notice so given shall be sufficient notice to all the holders of such share.

(97.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	41	Directing that certain number of members of the Committees of the following Unions shall be appointed by the Commissioner of the Division (*contd.*) :—		
				Rangpur District —*contd.*		
				Chhawla Union ...	972, 10 4 1917, para. 2.	Vol. III, p. 1440.
				Chilmari " ...	2339, 21 9 1918	Ditto, p. 1645.
				Dahaband " ...	2633, 9 11 1918, para. 2.	Ditto, p. 1567.
				Daldalia " ...	110, 12 1 1918, para. 2.	Ditto, p. 1477.
				Darsana " ...	977, 10 4 1917, para. 2.	Ditto, p. 1446.
				Dimla " ...	2341, 21 9 1918	Ditto, p. 1646.
				Domar " ...	2342, 21 9 1918	Ditto.
				Durgapur " ...	111, 12 1 1918, para. 2	Ditto, p. 1478.
				Etakumari " ...	970, 10 4 1917, para. 2.	Ditto, p. 1437.
				Gaibandha " ...	2333, 21 9 1918	Ditto, p. 1644.

TABLE B

TABLE of Fees to be paid to the Registrar of Joint Stock Companies by a Company having a capital divided into shares.

	Rs.	As.	P.
For registration of a Company whose nominal capital does not exceed Rs. 20,000 a fee of	40	0	0
For registration of a Company whose nominal capital exceeds Rs. 20,000 the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital, (that is to say)—			
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 20,000 rupees up to 50,000 rupees	20	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 50,000 rupees up to 1,000,000 rupees	5	0	0
For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 1,000,000 rupees ...	1	0	0
For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees or part of 10,000 rupees as would have been payable if such increased capital had formed part of the original capital at the time of registration.			
Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account in the case of fees payable on an increase of capital after registration the fees paid on registration			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association	5	0	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

TABLE C.

TABLE of Fees to be paid to the Registrar of Joint Stock Companies by a Company not having a capital divided into shares.

	Rs.	As.	P.
For registration of a Company whose number of members, as stated in the Articles of Association, does not exceed 20	40	0	0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 20, but does not exceed 100	100	0	0
For registration of a Company whose number of members, as stated in the Articles of Association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members or less number than 50 members after the first 100.			
For registration of a Company in which the number of members is stated in the Articles of Association to be unlimited, a fee of	400	0	0
For registration of any increase on the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase	5	0	0
Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company.			
For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company.			
For registering any document hereby required or authorized to be registered, other than the memorandum of association	5	0	0
For making a record of any fact thereby authorized or required to be recorded by the Registrar of Companies, a fee of	5	0	0

FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. , divided into shares of each.

The number of shares issued is . Calls to the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (or July) were :—

Debts owing to sundry persons by the Company .

Under decree, Rs.
On specialty, Rs.
On Notes or Bills, Rs.
On Simple Contracts, Rs.
On estimated Liabilities, Rs.

The Assets of the Company on that day were :—

Government Securities [stating them], Rs.
Bills of Exchange and Promissory Notes, Rs.
Cash at the Bankers, Rs.
Other Securities, Rs.

SECOND SCHEDULE.

FORM A.

Memorandum of association of a Company limited by shares.

1st.—The name of the Company is "The . Company, Limited."

2nd.—The registered Office of the Company will be situate in

3rd.—The objects for which the Company is established are, " and the doing all such other things as are incidental or conducive to the attainment of the above object."

4th.—The liability of the members is limited

5th.—The capital of the Company is Rs. divided into shares of Rs. each.

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	41	Directing that certain number of members of the Committees of the following Unions shall be appointed by the Commissioner of the Division (*contd.*):—		
				RANGPUR DISTRICT—*contd.*		
				Kismat Damodarpur Union.	2628, 9 11 1918, para. 2.	Vol. III, p. 1562.
				Kulkanda Union	973, 10 4 1917 para. 2.	Ditto, p. 1442.
				Kumarpur ,, ...	457, 31 5 1918, para. 2.	Ditto, p. 1494.
				Kurigram ,, ...	2900, 2 12 1918	Ditto, p. 1648.
				Kursa ,, ...	969, 10 4 1917, para. 2.	Ditto, p. 1436.
				Lakshmitari ,, ...	976, 10 4 1917, para. 2.	Ditto, p. 1445.
				Mahimaganj ,, ...	2337, 21 9 1918	Ditto, p. 1645.
				Mogalbacha ,, ...	46[illegible], 31 5 1918, para. 2.	Ditto, p. 1496.
				Mominpur ,, ...	980, 10 4 1917, para. 2.	Ditto, p. 1448.
				Naldanga ,, ...	2627, 9 11 1918, para. 2.	Ditto, p. 1563.

Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

4th.—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of

Witness to the above signatures.

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

(1.) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2.) The Directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

Definition of Members.

(3.) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4.) The first General Meeting shall be held at such time not being more than three months after the incorporation of the Company, and at such place as the Directors may determine.

(5.) Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year at such place as may be determined by the Directors.

(6.) The above-mentioned General Meetings shall be called Ordinary Meetings; all other General Meetings shall be called Extraordinary.

(7.) The Directors may whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene an Extraordinary General Meeting.

(8.) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

(9.) Upon the receipt of such requisition, the Directors shall forthwith proceed to convene a General Meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10.) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in General Meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any General Meeting.

(11.) All business shall be deemed special that is transacted at an Extraordinary Meeting, and all that is transacted at an Ordinary Meeting, with the exception of the consideration of the accounts, balance-sheets and the ordinary report of the Directors.

(12.) No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows: that is to say, if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

(13.) If within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting if convened upon the requisition of the members, shall be dissolved. In any other case it shall stand adjourned to the same day in the following week, at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

(14.) The Chairman (if any) of the Directors shall preside as Chairman at every General Meeting of the Company.

(15.) If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be Chairman of such meeting.

(16.) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17.) At any General Meeting, unless a poll is demanded by at least five members, a declaration by the Chairman that a Resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour or against such Resolution.

(18.) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the Chairman directs; and

the result of such poll shall be deemed to be the resolution of the Company in General Meeting.

Votes of Members.

(19.) Every member shall have one vote and no more.

(20.) If any member is a lunatic or idiot, he may vote by his Committee or other legal Curator: if any member is a minor he may vote by his guardian or any one of his guardians if more than one.

(21.) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22.) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointor, or if such appointor is a Corporation, under its common seal.

(23.) No person shall be appointed a proxy who is not a member, and the instrument appointing him shall be deposited at the registered Office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

(24.) Any instrument appointing a proxy shall be in the following form:—

COMPANY LIMITED.

I of being a member of the Company Limited, hereby appoint of as my proxy, to vote for me and on my behalf at the [Ordinay *or* Extraordinary, *as the case may be*] General Meeting of the Company to be held on the day of and at any adjournment thereof to be held on the day of next [*or* at any meeting of the Company that may be held in the year].

As witness may hand, this day of

Signed by the said in the presence of

Directors.

(25.) The number of the Directors and the names of the first Directors shall be determined by the subscribers of the memorandum of association.

(26.) Until Directors are appointed, the subscribers of the memorandum of association shall be deemed to be Directors.

Powers of Directors.

(27.) The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

Election of Directors.

(28.) The Directors shall be elected annually by the Company in General Meeting.

Business of Company.

(Here insert rules as to mode in which business of insurance is to be conducted).

Accounts.

(29.) The accounts of the Company shall be audited by a Committee of five members, to be called the Audit Committee.

(30.) The first Audit Committee shall be nominated by the Directors out of the body of members.

(31.) Subsequent Audit Committees shall be nominated by the members at the Ordinary General Meeting in each year.

(32.) The Audit Committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33.) The Audit Committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company. They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may in relation to such accounts examine the Directors or any other Officer of the Company.

(34.) The Audit Committee shall make a report to the mem-

bers upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations of the Company, and properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs, and in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory; and such report shall be read together with the report of the Directors at the Ordinary Meeting.

Notices.

(35.) A notice may be served by the Company upon any member, either personally or by sending it through the Post in a letter addressed to such member at his registered place of abode.

(36.) Any notice, if served by Post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the Post; and in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Winding-up.

(37.) The Company shall be wound up voluntarily whenever an Extraordinary Resolution, as defined by The Indian Companies' Act, 1866, is passed, requiring the Company to be wound up voluntarily.

Names, Addresses, and Descriptions of Subscribers

1.	A. B of	...	...	...	Merchant.
2	C. D. of	...	...	...	"
3.	E. F. of	...	...	...	"
4.	G. H. of	...	...	...	"
5.	I. J. of	...	...	...	"
6.	K. L. of	...	...	...	"
7.	M. N of	...	...	...	"

Dated the *day of* 18 .

Witness to the above signatures.

O P of

FORM C.

Memorandum and Articles of Association of a Company limited by guarantee, and having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The Hotel Company, Limited."

2*nd.*—The registered Office of the Company will be situate in

3*rd.*—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conductive to the attainment of the above object."

4*th.*—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the day of 18 .

Witness to the above signatures

O. P. of

Articles of Association to accompany preceding Memorandum of Association.

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The Directors may, with the sanction of the Company in General Meeting, reduce the amount of shares.

3. The Directors may, with the sanction of the Company in General Meeting, cancel any shares belonging to the Company.

4. All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of shares taken by each Subscriber.
1. A. B. of	
2. C. D. of	
3. E. F. of	
4. G. H. of	
5. I. J. of	
6. K. L. of	
7. M. N. of	
Total shares taken	

Dated the *day of* 186 .

Witness to the above signatures.

O. P. of

Memorandum and Articles of Association of an Unlimited Company having a capital divided into shares.

Memorandum of Association.

1*st.*—The name of the Company is "The Patent Company."

2*nd.*—The registered Office of the Company will be situated in

3*rd.*—The objects for which the Company is established are "the working of a patent method of . , of which method O. P. of is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

Names, Addresses, and Descriptions of Subscribers.

1. A. B. of
2. C. D. of
3. E. F. of
4. G. H. of
5. I. J. of
6. K. L. of
7. M. N. of

Dated the Day of 186 .

Witness to the above signatures.

Q. R. of

Articles of Association to accompany the preceding memorandum of association.

Capital of the Company.

The capital of the Company is twenty thousand rupees divided into twenty shares of one thousand rupees each.

Application of Table A.

All the Articles of Table A shall be deemed to be incorporated with these Articles, and to apply to the Company.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	66	Directing that the public dispensaries at the following places in the following districts shall be under the control and administration of the District Boards of those district (*contd*) :—		
				BEKARGANG DISTRICT—*concld.*		
				Kanakdia ...	581, 21 5 1902	Vol. III, p. 1658.
				Phuljhuri ...		
				BURDWAN DISTRICT—		
				Mâncoor	18 3 1887	Ditto, p. 1652.
				DINAJPUR DISTRICT—		
				Thakurgaon ...	14 2 1888	Ditto, p. 1658.
				FARIDPUR DISTRICT—		
				Banderkhola ...	2619, 25 8 1916	Ditto, p. 1659.
				Bhadrasan ...		
				Bhaira ...		
				Kalkini ...		
				Rajbari ...	1715, 14 7 1903	Ditto.
				HOOGHLY DISTRICT—		
				Mundlai	319, 28 6 1894	Ditto, p. 1658.
				JESSORE DISTRICT—		
				Jhenidah ...	3 5 1887	Ditto, p. 1653.
				Magura		
				Narail	9 7 1890	Ditto, p. 1654.
				Sridharpur ...	16 3 1891	Ditto.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	66	Directing that the public dispensaries at the following places in the following districts shall be under the control and administration of the District Boards of those districts (*concld.*) :—		
				KHULNA DISTRICT—		
				Bagerhat ...	19 3 1887	Vol. III, p. 1653.
				MIDNAPORE DISTRICT—		
				Gewankhali ...	5476, 13 12 1897	Ditto, p. 1658.
				NOAKHALI DISTRICT—		
				Feni	335, 16 2 1917	Ditto, p. 1659.
				Sandip (Harishpur Dispensary).	705, 16 4 1917	Ditto
				TIPPERA DISTRICT—		
				Chandpur ...	21 5 1888	Ditto, p. 1653.
				24-PARGANAS DISTRICT—		
				Bil Bulli ...	47, 2 1 1903	Ditto, p. 1659.
				Canning	298, 14 1 1899	Ditto, p. 1658.
				Diamond Harbour ...	27 7 1891	Ditto, p. 1654.
				Taki (Tara Sauker Dispensary).	7245, 20 12 1898	Ditto, p. 1658.

PART VI.

LIBRARY

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.		Placing the following roads in the following Municipalities under the control and administration of the following District Boards :—		
				HOOGHLY DISTRICT BOARD—		
				Hooghly-Chinsura Municipality—		
				Hooghly-Majnan and Inglis roads.	453, 25 9 1920	Vol. III, p. 1663.
				JALPAIGURI DISTRICT BOARD—		
				Jalpaiguri Municipality—		
				Portions of—		
				Jalpaiguri Alipur Road.		
				Jalpaiguri Boda Road.		
				Jalpaiguri Kasiabari Road.	6054, 2 12 1922	Ditto.
				Jalpaiguri-Sailihat Road.		
				Jalpaiguri-Siliguri Road.		
				Jalpaiguri Tetulia Road.		
				JESSORE DISTRICT BOARD—		
				Jessore Municipality—		
				Portion of the Calcutta-Jessore Road to the south of the Railway Station.	28 9 1889	Ditto, p. 573.

in order that the said Act of Parliament may be brought into operation; It is hereby enacted as follows:—

Repeal of Act IV of 1855.

I. Act No. IV of 1855 is hereby repealed, except as to the repeal of Act No. XIV of 1854 effected thereby, and except as to contracts made, acts done, and liabilities incurred before the passing of this Act.

For two months the powers, rights, and liabilities of Assam Company not to be effected.

II. For the period of two months next after the day of the passing of this Act, the incorporation, powers, rights, and liabilities of the said Company shall continue as if this Act had not been passed.

N. W. PROVINCES AND PUNJAB IRRIGATION.

ACT No. XII OF 1866.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to provide for the compulsory taking of rights to form and maintain private water-courses from public works of irrigation.

Recites expediency of providing for the compulsory taking of rights to form private water-courses through lands lying between works of irrigation, &c.

1. Interprets words of Number, and the words Section, Local Government, Collector, Canal Officer.

2—4. Application for private water-course to be made to the Canal Officer, with specified particulars, on Stamp; on (3) receipt of which Canal Officer shall visit the place and enquire, and may reject application, or, if he thinks it should be granted, he is to cause survey, &c.; and (4) forward memorandum and place to Lumburdar of village through which the water-course is to pass.

5. Collector to make proclamation of contents of memorandum.

6—10. Person objecting may do so by petition to Collector; and (7) if no objection is made, or Collector deems objection is insufficient, &c., or that plan admits of modifications; (8) he is to send memorandum to that effect to Canal Officer, who, (9) if he agrees with Collector, is to proceed according to Section 14, or (10) give notice, if no water-course is to be made.

11. Prescribes what the Canal Officer is to do if the water-course is to be formed.

12—13. Prescribes what is to be done if Collector and Canal Officer disagree; and (13) what is to be done if Collector is also Canal Officer.

14—16. After thirty days' notice under Section 5, lands to be marked out and terms of compensation settled as between applicant and land-owner, and (15) applicant may be required to pay amount, &c., and on compliance, Collector may authorize applicant to take possession of the right; and (16) directs what applicant may do on receiving authority from Collector.

17. Empowers Local Government to prescribe rules for specified purposes; such rules to be sanctioned by Government of India.

18. Bars suits for the taking of lands prior to passing of Act, and enables Collector to award compensation in such cases.

19. Limits the Act to the N. W. Provinces and Punjab, but empowers other Local Governments to extend the Act by notification in Gazette, &c.

Preamble.

WHEREAS it is expedient to provide for the compulsory taking of rights to form and maintain private water-courses through lands lying between public works of irrigation and the lands, mills, sewers, reservoirs or buildings of persons desiring water from such works for the purposes of irrigating, working or cleansing such lands, mills or sewers, or for bathing, drinking, manufacturing or other useful purposes; It is enacted as follows:—

Interpretation Clause. Number. "Section." "Local Government." "Collector." "Canal Officer."

I. In this Act, words in the singular include the plural, and words in the plural include the singular; "Section" means a Section of this Act; and in every place in which this Act operates, "Local Government" means the person authorized by law to administer Executive Government in such place and includes a Chief Commissioner; "Collector" includes any Officer authorized to exercise the duties of a Collector of the land revenue of such place; and "Canal Officer" means the chief Officer invested by the Local Government with the immediate control of the District defined by the Local Government for the purposes of irrigation in which such place shall be situate.

Application to Canal Officer.

II. Whenever any person shall require the right to form and maintain, for any of the purposes aforesaid, a private water-course through the lands

(hereinafter called the intervening lands) lying between a public work of irrigation and his own lands, mills, sewers, reservoirs or buildings, he shall apply in writing under his hand to the Canal Officer, stating

(1) The particulars of the right so required;

(2) That the applicant is willing to pay a reasonable sum for the purchase, rent or revenue thereof, to defray the expense of the survey, memoranda and plans required by this Act, to make reasonable compensation for any injury that may be caused to the intervening lands and to the crops thereon by the formation of the proposed water-course, and to construct and maintain such works connected therewith as may be necessary; and

(3) That he has endeavoured unsuccessfully to enter into an agreement with the owners, tenants and occupiers of the intervening lands as to the amount of the purchase-money or rent and compensation aforesaid.

Stamp.

Such application shall bear a stamp of eight annas.

Canal Officer to make local enquiry,

And either to reject application,

Or to cause survey, memorandum and plan to be made.

III. On receiving such appplication, the Canal Officer shall visit the intervening lands and make enquiry as to the expediency of forming the proposed water-course. If he is not satisfied of such expediency, he shall reject the application. But if he is satisfied of such expediency, he shall cause to be made at the applicant's expense a survey of the intervening lands and a memorandum and plan showing the direction, length, width and depth of the proposed water-course; the bridges, aqueducts, drains or other works (if any) to be made in connection therewith, and the amount of land required therefor. Such memorandum shall also state that, in the opinion of the Canal Officer, the formation of the proposed water-course will be a benefit to the applicant, and will cause no disproportionate injury to the intervening lands, and it shall be subscribed by the Canal Officer and recorded in his Office.

Memorandum to be subscribed and recorded by Canal Officer.

IV. The Canal Officer shall forward the said plan together with a copy under his hand of such memorandum to the Collector, who shall furnish a copy under his hand of the memorandum to the Lumberdar or Sudder Malguzar of every village through which the proposed water-course is to pass.

Plan and copy of memorandum forwarded to Collector, and copy of memorandum furnished by him to Lumberdars.

V. The Collector shall also cause the contents of the said memorandum to be proclaimed in every such village in the local vernacular language, and shall at the same time cause notice to be published in the same language in every such village that any person interested in the lands to be traversed by the proposed water-course, and objecting to its formation, shall be at liberty to apply to him within fifteen days from the date of such proclamation.

Proclamation of contents of memorandum.

VI. Any such person may within the time hereinbefore limited present a petition to the Collector, stamped with a stamp of the value of eight annas and setting forth his objections to the formation of the proposed water-course. The Collector may in his discretion either reject the petition, recording his reasons thereon, or make an enquiry, of which he shall give previous notice to the Canal Officer, as to the validity of the objections, and summon witnesses and require them to produce before him all such documents as he shall think fit. Persons so summoned shall be subject to the law for the time being in force as regards persons summoned before a Collector acting judicially.

Petition to Collector against water-course.

Procedure of Collector on receipt of petition.

VII. If no objection shall have been made under the provisions of Section 6;

Memorandum by Collector.

Or if the Collector shall think that the objections (if any) to the formation of the proposed water-course are insufficient and that such water-course should be formed;

Or if he shall think that such objections are sufficient, and that it should not be formed;

Or if he shall think that such objections exist, but that they may be obviated by the construction of bridges, aqueducts,

drains or other such works, in addition to the works (if any) referred to in Section 3, and that the proposed water-course should be formed, proper provision being made for the construction and maintenance of such additional works (mentioning them).

He shall make, subscribe and record in his Office a memorandum to that effect.

Copy of Collector's memorandum to be sent to Canal Officer.

VIII. The Collector shall thereupon send the Canal Officer a copy under his hand of such memorandum.

Procedure thereon when Canal Officer and Collector agree that water-course should be formed.

IX. If the Canal Officer shall agree with the Collector that the water-course should be formed, and that no additional works connected therewith are needed, he shall proceed according to the provisions in such case contained in Section 14.

When Canal Officer and Collector agree that the water-course should not be formed.

X. If he shall argee with the Collector that the water-course should not be formed, he shall give notice thereof to the applicant, and all proceedings shall thereupon be stayed.

When Canal Officer and Collector agree that the water-course should be formed, provision being made as to additional works.

XI. If the Canal Officer shall agree with the Collector that the water-course should be formed, proper provision being made for the construction and maintenance of the additional works mentioned in Section 7, he shall cause to be prepared at the expense of the applicant a memorandum and plan of the same works and shall record such memorandum and plan in his Office and shall forward to the Collector the plan and a copy of the memorandum.

Procedure in case Collector and Canal Officer disagree.

XII. If the Canal Officer disagree with the Collector's memorandum under Section 7, he shall submit the copy thereof sent to him under Section 8, together with a statement of his own reasons for such disagreement, through the head of his own Department, to the Commissioner of the Division. If the Commissioner agree with the Canal Officer, the Commissioner's decision on the points in dispute shall be final. If the Commis-

sioner disagree with the Canal Officer, the whole case shall be referred to the final decision of the Local Government.

Procedure where Collector is himself Canal Officer.

XIII. Where the Collector is himself the Canal Officer, he shall forward to the Commissioner of the Division all petitions presented under Section 6, who shall then proceed in the same manner, and with the same powers, as if he were a Collector acting under Section 6: and in every such case Sections 7, 8, 9, 10 and 11 shall be read as if for the word "Collector" the words "Commissioner of the Division" were substituted.

Procedure after thirty days from the giving of notice under Section 5.

XIV. At the expiration of thirty days from the giving of the notice mentioned in Section 5, if under the provisions hereinbefore contained it shall have been determined that the proposed water-course is to be formed, the Canal Officer shall enter upon the intervening lands and mark out the limits of the proposed water-course; and thereupon the Collector shall adjust the amount to be given as purchase-money, rent and revenue or any of them for the right and as compensation for the injury respectively mentioned in Section 2. In making such adjustment the Collector shall follow the procedure and may exercise the powers prescribed for and conferred upon him by Act No. VI of 1857, Sections 4, 5, 6 and 7.

Collector to fix compensation.

Collector to require applicant to pay purchase-money.

XV. The Collector shall then require the applicant to pay such amount (if any) as shall be payable at once, and, if the said Collector shall think fit, to deposit with him such security as he shall deem sufficient for the due payment of the rent and revenue (if any) aforesaid, and for the construction and maintenance of the works (if any) connected with the said water-course. And, on compliance with such requirement, the Collector shall authorize the applicant to take and enjoy the right aforesaid.

On payment, applicant to be authorized to take right.

Applicant may enter with workmen, &c.

XVI. On receiving such authority from the Collector, it shall be lawful for the applicant, with such workmen, cattle and things as may be necessary, to enter upon the intervening lands and make the proposed water-course within the limits so marked out as aforesaid, and either to remove all or any of the clay, sand, gravel and stones which shall be taken out of the said water-course, or to use all or any parts thereof in making the said water-course and the works connected therewith, and to use such water-course for the purpose of conveying water from the said public works of irrigation in the direction of and into his lands, mills, sewers, reservoirs or buildings, as the case may be, at the place indicated in the plan mentioned in Section 3; and from time to time, with such workmen, cattle and things as aforesaid, to enter upon the said intervening lands and inspect, repair and cleanse the said water course, and from time to time for the purposes aforesaid to place upon the same lands and to remove such materials, machinery and other things as he shall think fit.

Power to Local Government to make Rules.

XVII. It shall be lawful for the Local Government from time to time to prescribe Rules, consistent with the provisions of this Act, upon all or any of the subjects next hereinafter mentioned; (that is to say) :—

(1.)—The formation of the water-course and the works (if any) connected therewith, in a proper and workmanlike manner:

(2.)—The removal of the clay, sand, gravel and stones excavated in the formation of the water-course, and not used as aforesaid:

(3.)—The time for the completion of the water-course and the works (if any) connected therewith:

(4.)—The cleansing of the water-course and the maintenance and repair of the water-course and works (if any) connected therewith:

(5.)—The avoidance of unnecessary damage to the surface of the adjoining lands and the crops for the time being thereon and the compensation for such damage (if any):

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government	138 (*a*)	Amendments in the rules of 15th December, 1885, noted *ante* (*contd.*) :—		
				Revised rule 32 ...	3457, 3 12 1904	Vol. III, p. 1666.
				Revised rules 33 and 34.	612, 25 2 1919	Ditto, p. 1668.
				New rule 34A ...	2079, 25 7 1903	Ditto, p 1665.
				Revised rules 37, 38, 40, 41, 42, 43 and new rules 43A and 43B.	612, 25 2 1919	Ditto, p. 1668.
				Amendment of rule 44	3281, 21 7 1921	Ditto, p. 1670.
				Revised rule 54 ...	16 1 1892	Ditto, p. 1665.
					887, 23 9 1911	Ditto. p. 1666.
					[1] 2490, 22 9 1914	Ditto, p. 1667.
				„ „ 57 ...	1325, 6 4 1916	Ditto.
				„ „ 59 ...	28 5 1887	Ditto, p. 1665.
				„ „ 62 ...	2901, 14 8 1893	Ditto.
				New rules 62A and 62B.	2079, 25 7 1903	Ditto.
				Amendment of rule 63	1325, 6 4 1916	Ditto, p. 1667.
				New rule 64 ...	793, 14 9 1911	Ditto, p. 1666.
					[1] 2490, 22 9 1914	Ditto, p. 1667.

[1] This notification is in force in the Chittagong, Dacca and Rajshahi Divisions.

lector shall think fit for the injury (if any) done to such land by the formation of the water-course, and the amount of such compensation may be recovered in such manner as the Local Government shall provide.

Present extent of Act.

XIX. This Act applies to the Territories respectively under the Governments of the Lieutenant-Governor of the North-Western Provinces and the Lieutenant-Governor of the Punjab. But it may be extended, *mutatis mutandis*, to any other part of British India by an order of the Local Government notified in the Official Gazette; and from the date of any such extension, so much of any Act, Regulation or Rule having the force of law, which shall be in operation in the Territories to which such extension shall have been made, as shall be inconsistent with this Act or with any Rule prescribed by such Government pursuant to Section 17, shall cease to have effect in such Territories.

Act may be extended.

OUDH—LIMITATION OF SUITS.

ACT No. XIII OF 1866.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.

Recites expediency of exempting certain suits in Oudh from existing Law of Limitation.

1. Suits of specified kind relating to the tenure of land not to be barred by existing Law of Limitation, if cause of action arose on or after the 13th February 1844.

2—3. Confirms mortgagees in possession, if mortgage was executed before 13th February 1844, and revives title of mortgagor to redeem in cases in which suit to redeem was rejected on ground of limitation and of mortgage being executed on or after 13th February 1844; and (3) saves from operation of Act, suits for redemption, where mortgage term had not expired before said date.

4. Act to be read as part of Act XVI, 1865.

WHEREAS it is expedient to exempt certain suits in Oude relating to land from the operation of the rules of limitation in force in that Province; It is enacted as follows:—

Preamble.

I. No suit relating to any tenure which, under the provisions of Act No. XVI of 1865, shall be solely cognizable in the Courts of Revenue in the said Province, shall be barred under the rules of limitation in force in such Courts if the cause of suit shall have arisen on or after the 13th day of February 1844. And any suit or appeal relating to any tenure and cognizable as aforesaid, which may have been rejected or dismissed upon the ground that the suit was barred under the said rules, may be revived and heard on the merits, if the cause of suit shall have arisen on or after such day.

Certain suits relating to tenures not to be barred if cause of suit arose on or after 13th February 1844.

II. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit in any Civil Court or any Revenue Court in the said Province to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding. Provided that any suit for the redemption of land, which may have been rejected or dismissed upon the ground that the suit was barred under some rule of limitation in force, or supposed to be in force, in the said Province, may be revived and heard as aforesaid, if the mortgage shall have been executed on or after the said day.

Bar of redemption-suits when mortgage executed before 13th February 1844.

Certain redemption-suits may be revived when the mortgage was executed on or after 13th February 1844.

III. Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had

This Act not to bar redemption-suits where fixed term for redemption had not expired before 13th February 1856.

not expired before the 13th day of February 1856; Provided that if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

This Act to be read with Act No. XVI of 1865.

IV. This Act shall be read with and taken as part of the said Act No. XVI of 1865.

INDIAN POST OFFICE ACT.

ACT No. XIV OF 1866.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to amend the law for the management of the Post Office, for the regulation of the Duties of Postage, and for the punishment of offences against the Post Office.

Recites expediency of amending the law for the management of the Post Office for the Regulations of Dâks, &c.

PART I.

Preliminary, 1—7.

1—4. Names the Act "THE INDIAN POST OFFICE ACT;" and (2) interprets the words Criminal Court, Fine, Clubbed Packet, Newspaper, Mails, British India; and (3) repeals Act XVII, 1854; and (4) references in other Acts to Act XVII, 1854, to be read as made to corresponding Sections of this Act.

5—6. Vests in the Government of India the executive right of conveying letters by post from one place to another, except as is excepted; and (6) prohibits common carriers and other specified persons from carrying letters gratuitously.

(7). Authorizes the Government of India to appoint, &c., Post Office Establishments.

PART II.

Postage Rates, 8—24.

8—16. Establishes the postage rates of letters; (9) the postage rates of newspapers; (10) on certain conditions; the (11) non-compliance with

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	138(*a*)	Notifications under rule 19 of the rules of 15th December, 1885, noted *ante*, p. 1208, fixing the number of members to be elected for each thana within the areas under the following Local Boards(*contd.*) :—		
				JESSORE DISTRICT—		
				Sadar Local Board Bangaon " " Jhenidah " " Magura " " Narail " "	50, 2 12 1921	Vol III, p. 1683.
				KHULNA DISTRICT—		
				Sadar Local Board Bagerhat " " Satkhira " "	46, 25 11 1921	Ditto, p. 1682.
				MIDNAPORE DISTRICT—		
				Sadar Local Board Contai " " Ghatal " " Jhargram " " Tamluk " "	1828, 23 6 1922	Ditto, p. 1686.

33. Entitles the Commander to one anna for each letter, which is to be charged as postage in addition to ordinary rates.

34. Obliges Commanders of ships to receive letters and packets from Post Office when required.

PART VI.

Postage Stamps, 35—41.

35—37. Establishes payment by stamps impressed; and (36) authorizes Government to provide them; and (37) brings such stamps within the meaning of the Indian Penal Code as stamps for the purpose of revenue.

38—41. Authorizes the Government to make rules for appointment, &c., of vendors of stamps, &c.; and (39) makes rules binding on vendors; and (40) provides penalty for vendors, refusing, &c., to supply stamps; and (41) for charging more than legal price.

PART VII.

Offences against the Post Office, 42—61.

42—46. As to offence of sending dangerous substance by post; (43) of making false certificate in fraud of Post Office; (44) of detaining mails and opening bags: (45) of retaining, &c., letters delivered by mistake; (46) of conveying letters in breach of Post Office privilege, and doing anything belonging to Post Office privilege, and making up clubbed packet of letters, or sending letters in breach of privilege, or collecting excepted letters.

47—51. Provides penalty for neglect on part of persons carrying the mails; and (48) against Post Office servants for stealing, &c., or opening letters; (49) for fraudulently altering marks on letters; (50) for incorrectly preparing, &c., documents; (51) for sending letters on which postage is not paid.

52. Extends to persons abetting, &c., the above offences the same punishment as on principals.

53. Gives jurisdiction to all Criminal Courts as respects offences punishable by fine only, whether by European British subjects or others.

54. Provides that convictions shall be quashed only on the merits.

55. Empowers Magistrates to refer charges to Assistants, where offence is punishable by fine only.

56—58. Provides Procedure for recovery of fines; and (57) allows half the fine to be awarded to the informer; but (58) no proceeding for recovery of fine to be taken without order of Government, if the offence is punishable by fine only.

59. Provides for the punishment of Post Office servants committing offence in allied States.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government	138(*a*)	Notifications under rule 19 of the rules of 15th December, 1885, noted *ante*, p. 1208, fixing the number of members to be elected for each thana within the areas under the following Local Boards (*contd*). :—		
				PABNA DISTRICT—		
				Sadar Local Board Serajganj „ „	1733, 8 7 1921	Vol. III, p. 1681.
				RAJSHAHI DISTRICT—		
				Sadar Local Board Naogaon „ „ Nator „ „	1647, 2 7 1921	Ditto, p. 1680.
				RANGPUR DISTRICT—		
				Sadar Local Board Gaibandha „ „	1423, 10 6 1921	Ditto, p. 1679.
				Kurigram „ „ Nilphamari „ „	1522, 20 6 1921	Ditto, p. 1680.
				TIPPERA DISTRICT—		
				Sadar Local Board ...	435, 28 1 1921	Ditto, p. 1676.
				Brahmanbaria Local Board. Chandpur Local Board	668G.,—VI—17, 17 2 1922	Ditto, p. 1684.
				24-PARGANAS DISTRICT—		
				Sadar Local Board Barasat „ „	12 27 5 1921	Ditto, p. 1678.

not exceeding thirty-one days: "Mails" shall include any letter, parcel or other article conveyed under the provisions of this Act, as well as any box, bag or other article, or any carriage, horse, messenger or other person employed or used by the Post Office for the conveyance or safe custody of Mails; and "British India" includes the territories which are now or shall be vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106 (An Act for the better Government of India).

"Mail."

"British India."

III. Act No. XVII of 1854 is hereby repealed, except so far as it repeals the whole or any part of any other Act or Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced before this Act shall come into operation.

Repeal of Act No. XVII of 1854.

IV. References to any Section of Act No. XVII of 1854 made in any Act passed subsequent thereto, shall be read as if made to the corresponding Section of this Act.

References to Act No. XVII of 1854 to be read as made to this Act.

V. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the said Government shall have the exclusive privilege of conveying by Post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say—

Exclusive privilege of carrying letters vested in the Government of India.

(1.) Letters sent by a private friend in his way, journey or travel so as such letters be delivered by such friend to the person to whom they shall be directed, without hire, reward or other profit or advantage for receiving, carrying or delivering the same:

(2.) Letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose:

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	138 (*b*), (*c*), (*d*), (*e*), (*f*), (*h*), (*i*), (*q*), (*s*), (*t*).	Addition to the rules of 15th December 1885, (noted on page 1208 *ante*) of Parts IV V and VI relating to proceedings at meetings and election of Chairman and Vice-Chairman to transfer of property and to contracts (*concld.*)		
				Amendments in the rules of 11th February 1886 noted *ante* :— *concld.*		
				Amendment of rule 56	19 4 1886	Vol. III, p. 1695.
				New rule 77 A ...	1220, 3 7 1917	Ditto.
				Revised rule 81 ...	11 2 1890	Ditto.
"	"	Ditto ..	138 (*e*) (*m*).	Rules for the preparation, submission and execution of projects for water-supply, sewerage or drainage by local authorities	439, 11 2 1917	Ditto, p. 1696.
				Amendments in the rules of 11th February 1917, noted above—		
				Addition to rule 6 ...	3454, 8 9 1919	Ditto, p. 1702.
				Revised rule 28 (*2*) ...	2887, 25 11 1922	Ditto.
"	"	Ditto ...	138 (*g*)	Rule prescribing the qualifications of candidates for employment as Health Officers for District Boards.	3106, 21 9 1921	Ditto.
"	"	Ditto ...	138 (*g*), (*l*) (*m*).	Rules as to qualifications of candidates for employment as District Engineers, Overseers, Sub-Overseers and Accountants.	3334, 20 12 1901	Collier's Local Self-Government Handbook, 1916, p. 383.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	138 (*g*), (*l*) (*m*).	Amendments in the rules of 20th December, 1901, noted (*ante*)—		
				Cancellation of rule 1	1817, 11 4 1922	Vol. III, p. 1708.
				Revised rule 2 ...	1781, 12 12 1912	Ditto, p. 1707.
					809, 18 2 1922	Ditto, p. 1708.
				Cancellation of rules 3 and 4.	1198, 18 6 1906	Ditto, p. 1703.
					[1] 2587, 27 7 1907	Ditto.
				Revised rule 7 ...	497, 23 10 1922	Ditto, p. 1709.
				New rule 9A ...	1415, 16 5 1914	Ditto, p. 1708.
				Amendment of rule 11	1817, 11 4 1922	Ditto.
				Revised rule 12 ...	1198, 18 6 1906	Ditto, p. 1703.
					[1] 2587, 27 7 1907	Ditto.
				Amendment in the heading of rule 21.	1817, 11 4 1922	Ditto, p. 1708
				Revised rule 21 ...		
				Amendment of rule 31.	586, 18 3 1912	Ditto, p. 1706.
				Revised rule 32 ...	586, 18 3 1912	Ditto.
					[1] 3689, 25 5 1909	Ditto, p. 1704.

[1] These notifications are in force in the Chittagong, Dacca and Rajshahi Divisions only.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	138 (*g*), (*l*), (*m*).	Amendments in the rules of 20th December, 1901, noted *ante* :—*concld.*		
				New rule 32A ...	586, 18 3 1912	Vol. III. p. 1706.
				Revised rule 37 and amendment of Forms A, B and C.	1706, 23 12 1910	Ditto, p. 1705.
					645, 3 7 1911	Ditto.
						Calcutta Gazette—
				New rule 37A ...	4490, 27 11 1923	1923, Pt. I, p. 1831.
				Amendments of rule 42	3379, 27 7 1921	Vol. III, p. 1708.
				Revised rule 44 ...	1298, 10 8 1908	Ditto, p. 1704.
					[1] 3689, 25 5 1909	Ditto.
				Additional rule 50A ...	22, 14 4 1906	Ditto, p. 1703.
				Revised rule 53 ...	586, 18 3 1912	Ditto, p. 1706.
					[1] 3689, 25 5 1909	Ditto, p. 1704.
				New rule 53A ...	509, 14 6 1912	Ditto, p. 1707.
						Calcutta Gazette—
				Proviso to rule 56 ...	961, 23 6 1923	1923, Pt. I, p. 905.
				Revised rule 57 ...	1674, 28 11 1912	Vol. III, p. 1707.
				Amendment of rule 57	1817, 11 4 1922	Ditto, p. 1708.
				Cancellation of Schedule A.	1817, 11 4 1922	Ditto.

[1] This notification is in force in the Dacca, Chittagong and Rajshahi Divisions only.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	138 (*g*), (*t*).	Rules prescribing the qualifications of candidates for employment as Sanitary Inspectors for District Boards.	272, 29 1 1914	Vol. III, p. 1711.
"	"	Ditto ...	138 (*i*), (*l*), (*t*).	Rules regarding District Engineers' Accounts.	3135, 20 12 1920	Ditto, p. 1712.
				Amendment in the rules of 20th December, 1920, noted above—		
				New rule 28A ...	3654, 11 8 1921	Ditto.
"	"	Ditto ...	138 (*i*), (*t*).	Bengal Local Self-Government Account Rules.	2158, 5 9 1918	The Bengal Local Self-Government Account Rules, 1920, p. 1.
				Amendments in the rules of 5th September, 1918, noted above—		
				Amendment of rule 77	3165, 7 6 1922	Vol. III, p. 1715.
					6076, 5 12 1922	Ditto.
				Addition to rule 85 ...	616, 28 10 1920	Ditto, p. 1713.
				Amendment of rule 86		
				Amendment of Rule 114.	1975, 4 4 1921	Ditto, p. 1714.
				Amendment of heading above rule 116.	708, 28 10 1920	Ditto, p. 1713.
				Revised rule 116 ...		
				Addition to rule 116 (*a*)	5038, 21 12 1921	Ditto, p. 1714.

Provided that not more than one letter shall be enclosed in a banghy-parcel, under a penalty not exceeding fifty rupees.

Table of distances for calculation of banghy-postage.

XV. Banghy-postage, when chargeable by distance under Section 14 of this Act, shall be calculated and charged according to such Table of distances as shall be authorized from time to time for that purpose by the Governor-General of India in Council. And it shall be lawful for the Governor-General of India in Council to declare that the distances from or to Post Offices not entered in such Table shall, for the purposes of this Act, be regarded as represented by the distances shown in the Table from or to the Post Offices nearest to them respectively. Each Post Master General shall prepare from the aforesaid Table, in the English and vernacular languages, for the use of every Post Office under his control, a list of all the other Post Offices in India, arranged alphabetically, and showing the distance of each of them from the Post Office for the use of which it is made, and such list shall be affixed in some conspicuous place in such Post Office.

Where there is no Banghy-Post, parcels, books, &c., may be carried by Letter-Post.

XVI. Where there is no Banghy-Post established on any line of road, parcels, books and other articles shall be received and transmitted by the Letter-Post, and shall be charged with postage according to the scale in Section 13 or 14 of this Act, as the case may be, if it be certified in writing, on such parcel, book-packet or other article under the full signature and address of the sender, that it does not contain any letter or other written communication on which a higher rate of postage is chargeable under any Section of this Act.

Effect of false certificate.

If any such certificate be false, any such letter or other written communication contained in such certified parcel, book-packet or other article shall be charged with letter-postage as if sent separately, and the sender shall be subject to the penalty hereinafter provided.

Book-packets and parcels not exceeding ten tolahs in weight to go by Letter-Post unless directed to be sent by Banghy or Book-packet Post.

XVII. All book-packets and parcels not exceeding ten tolahs in weight, sent through the Post Office, shall be conveyed by Letter-Post, and be charged with letter-postage, unless specially directed to be sent by Banghy or Book-packet Post.

Ship postage on parcels.

XVIII. On all parcels chargeable under Section 14 of this Act with banghy-postage according to distance when conveyed by land, ship postage shall be charged when they are conveyed by means of Her Majesty's Indian Post by sea, according to the following scale, that is to say—

On every parcel not exceeding twenty tolahs in weight,—two annas:

On every parcel exceeding twenty tolahs but not exceeding forty tolahs in weight,—four annas:

On every parcel exceeding forty tolahs but not exceeding one hundred tolahs in weight,—eight annas:

And for every hundred tolahs in weight above one hundred tolahs,—eight additional annas. Every fraction of one hundred tolahs above one hundred tolahs shall be charged as one hundred additional tolahs; and if such parcel be conveyed by Her Majesty's Indian Post, partly by land and partly by sea, ship postage shall be charged in addition to inland banghy-postage.

Governor-General in Council may direct prepayment of postage in all cases.

XIX. It shall be lawful for the Governor-General of India in Council at any time to direct that all or any letters or other articles shall not be forwarded by Post, unless the postage thereof shall be fully pre-paid by means of a proper stamp or stamps; or that on all or any letters or other articles on which the postage shall not be fully pre-paid by a stamp or stamps, or otherwise, as the said Governor-General in Council shall direct, there shall be charged such higher rates of postage as from time to time may be deemed expedient, not exceeding double the rates of postage hereinbefore specified.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	138 (*q*), (*t*).	Rules regulating the powers and duties of Union Committees in regard to sanitation, conservancy and drainage works under sections 115 and 116 of the Act.	2055, 20 11 1917	Vol. III, p. 1743.
"	"	Ditto ...	138(*t*)	Rules as to preliminary publication, confirmation and final publication of by-laws made under section 139 or section 140 of the Act by District or Local Boards in the—		
				Presidency and Burdwan Divisions.	764, 7 9 1910	Ditto, p. 1744.
				Chittagong, Dacca and Rajshahi Divisions.	1468, 22 5 1914	Ditto, p. 1745.
				Amendment of rule 5 of the rules of 7th September, 1910, and 22nd May, 1914, both noted above.	414, 21 6 1917	Ditto, p. 1747.
"	"	Ditto ...	"	Rules as to the supply of copies of, and of information respecting, papers and documents in the offices of District and Local Boards.	1303, 10 4 1893	Collier's Local Self-Government Handbook, 1916, p. 422.
"	"	Ditto ...	139	By-laws for the District Boards of the following districts :—		
				Bakarganj ...	1308, 19 3 1917	Calcutta Gazette— 1917, Pt. I, p. 485.

been conveyed by Post, there shall be charged for the postage thereof from the place at which the same shall be re-directed, or from which it shall be forwarded, in addition to all other postage paid or due thereon, the rate of postage to which it would be liable if posted and pre-paid by stamp at the place where it shall be re-directed or from which it shall be forwarded.

PART III.

Registered Letters.

Letters may be registered.

XXV. Any person posting a letter or other article shall be entitled to require that it shall be registered at the receiving Post Office, and that a receipt shall be granted for such registered letter or article; and it shall be lawful for the Governor-General of India in Council to direct that, in addition to any rates of postage payable under this Act, a fee not exceeding four annas shall be charged on any letter or other article which the sender thereof shall require to be so registered, and such registration fee shall be paid by means of a stamp or stamps affixed to the letter or other article.

Governor-General in Council may declare in what cases registration shall be compulsory

XXVI. It shall be lawful for the Governor-General of India in Council from time to time by order to declare in what cases registration shall be compulsory, and to direct that a double registration fee shall be levied on the delivery of any letter or other article which ought, under the order of the Governor-General in Council, to have been registered at the time of posting, on which the registration fee shall not have been pre-paid as directed in Section 25.

PART IV.

Re-delivered, Unpaid, Unclaimed and Refused Letters.

Re-delivery of letters and other articles once put into Post Office

XXVII. No person having delivered into any Post Office any letter or other article shall be entitled to recall the same; but nothing in this Section shall prevent the re-delivery of any

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	139	By-laws for the District Boards of the following districts (*contd.*) :—		Calcutta Gazette—
				Faridpur ...	5 5 1914	1914, Pt. I, p. 916.
					5512, 19 12 1919	1919, Pt. I, p. 2008.
					1431, 17 3 1920	1920, Pt. I, p. 620.
					4850, 8 9 1920	Ditto, p. 1798.
					758, 16 2 1921	1921, Pt. I, p. 333.
					1381, 1 4 1921	1921, Pt. I, p. 567.
				Hooghly ...	22 8 1912	1912, Pt. I, p. 1409.
					2694, 14 8 1921	1921, Pt. I, p. 1397.
					1005, 13 4 1923	1923, Pt. I, p 555.
				Howrah ...	20 2 1912	1912, p. 430.
					17 5 1912	Ditto, p. 924.
					2796, 14 8 1921	1921, Pt. I, p. 1397.
				Jalpaiguri ...	5 3 1892	1892, Pt. IB, p. 52.
				Jessore ...	25 4 1912	1912, Pt. I, p. 820.
					157, 10 8 1923	1923, Pt. I, p. 1196.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1885	III	Local Self-Government.	139	By-laws for the District Boards of the following districts (*contd.*) :—		Calcutta Gazette—
				Khulna	25 4 1912	1912, Pt. I, p. 857.
					5 9 1912	1912, Pt. I, p. 1472.
					10 9 1921	1921, Pt. I, p. 1593.
				Malda	1743, 22 9 1914	1914, Pt. I, p. 1848.
				Midnapore ...	19 6 1912	19.2, Pt. I, p. 1095.
					21 6 1915	1915, Pt. I, p. 1222.
					18 10 1916	1916, Pt. I, p. 1949.
					2280, 30 8 1922	1922, Pt. I p. 1737.
				Murshidabad ...	432, 18 6 1908	1908, Pt. IB, p. 86.
					16, 30 1 1923	1923, Pt. I, p. 189.
				Mymensingh ...	1 4 1915	1915, Pt. I, p. 643
					5021, 6 10 1923	1923. Pt. I, 1562.
				Nadia	25 4 1912	1912, Pt. I, p. 815.
					68, 14 11 1919	1919, Pt. I, p. 1832.

PART V.

Mails on board Inward and Outward bound Vessels.

Commanders of inward-bound vessels carrying Mails how to proceed on arrival.

XXXI. When any vessel arrives by sea at any place within British India at which there is a Post Office, the Commander of such vessel shall, as speedily as possible, cause every letter, mail bag, box and packet on board of such vessel, which is directed to that place and not excepted from the exclusive privilege of the Post Office, to be delivered either at the Post Office or to some Officer of the Post Office authorized to receive the same; and if there be on board any letter, mail bag, box or packet, directed to any other place and not excepted from the exclusive privilege aforesaid, the said Commander shall as speedily as possible report the same to the Post Master of the place at which he has arrived, and shall act according to the directions he may receive from such Post Master, and the receipt of such Post Master shall discharge such Commander from all responsibility in respect of such letter or packet. Every Commander of a vessel who shall wilfully disobey any of the directions contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

Penalty.

Detention of letters on board inward-bound vessel.

XXXII. Every person being either the Commander of a vessel inward-bound or any one on board such vessel, who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the Post Office, after any part of the letters on board the said vessel shall have been sent to the Post Office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody; and every such person who shall detain any such letter after demand made for the same by an Officer of the Post Office, shall forfeit for every such letter a sum not exceeding one hundred rupees.

Bounty-money.

XXXIII. For every letter delivered by the Commander of any ship in conformity with the directions of Section 31 of this Act, the Officer in

charge of the Post Office shall pay to the said Commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act. Provided that no payment shall be made to the Commander of any vessel on account of the delivery of any letter, unless the claim of such Commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel. Provided also, that nothing contained in Section 31 and the former part of this Section of this Act, shall extend to any letter or mail bag, or box or packet conveyed by any mail ship or mail steamer recognized as such by the Governor-General of India in Council.

Commanders of outward-bound vessels to receive Mails on board.

XXXIV. The Commander of every vessel leaving any place in British India by sea, shall receive on board of such vessel every letter and packet which he shall be required so to receive by any Officer of the Post Office, and shall give a receipt for such letter or packet; and every Commander of a vessel who shall wilfully disobey any direction contained in this Section, shall be punished with a fine not exceeding one thousand rupees.

PART. VI.

Postage Stamps.

Stamped letters to be considered as pre-paid.

XXXV. All letters and other articles having a stamp or stamps affixed thereto (such stamp or stamps in every case being affixed on the outside, and being equal in value to the rate or rates of postage to which such letters or other articles are liable under this Act), shall, provided the stamp or stamps shall not have been used before, be considered as pre-paid.

Postage stamps to be provided by Government.

XXXVI. The Governor-General of India in Council shall cause postage stamps to be provided, denoting such values as the said Governor-General of India in Council may direct, and

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1887	I	Calcutta Survey.	21	Approving the survey of the following areas in Calcutta :—		
				Maidan, Eden Gardens and ground surrounding the Fort.	1056, 23 2 1894	Vol. III, p. 1748.
				Following areas of the North Division :—		
				Block No. I ...	2771, 21 5 1894	Ditto, p. 1749.
				" " II ...	3035, 12 6 1894	
				" " III ...	2259, 23 4 1894	Ditto.
				" " IV ...		
				" " V ...		
				" " VI ...	2771, 21 5 1894	Ditto.
				" " VII ...	3035, 12 6 1894	
				" " VIII ...	3356, 3 7 1894	
				" " IX ...		
				" " X ...	3810, 30 7 1894	Ditto, p. 1750.
				" " XI ..		
				" " XII ...		

Penalty for selling stamps for higher price than the value denoted thereby.

XLI. Any Government vendor of postage stamps convicted of taking from a purchaser a higher price than the value denoted on the stamps sold shall be punished on conviction with imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding six months, or shall be liable to a fine not exceeding one hundred rupees, and shall also be liable to refund to the purchaser the whole amount proved to have been taken in excess, which amount may be recovered by such purchaser before a Criminal Court, in the same manner as any penalty under this Act.

PART VII.

Offences against the Post Office.

Penalty for sending dangerous substance by Post.

XLII. No person shall knowingly post, or send, or tender, or deliver, in order to be sent by the Post, any letter, parcel or packet containing any explosive or other dangerous material or substance; and any person contravening this prohibition shall be punished for every such offence with a fine not exceeding two hundred rupees.

Penalty for making false certificate in order to defraud the Post Office.

XLIII. Every person who shall, for the purpose of defrauding the Post Office Revenue, wilfully certify by writing on any official or other letter or packet delivered at any Post Office for conveyance by Post, that which is not true in respect of such letter or packet or in respect of the whole of its contents, or shall knowingly send or deliver, or attempt to send or deliver for conveyance by Post, any letter or packet with any such false certificate thereon; and every person who shall knowingly send or permit to be sent by Post, under colour or pretence of an official communication, any letter, paper, writing or other enclosure of a private nature, shall, for every such offence, be punished with a fine not exceeding five hundred rupees.

XLIV. It shall not be lawful for any person, unless acting by express order of the Government, to detain, except for a criminal offence, a Post Office messenger whilst carrying the Mails, or to detain any carriage or horse upon which the Mails are being carried, or on any pretence to open a packet or mail bag or box in transit from one Post Office to another, and every person who shall be guilty of any of the offences mentioned in this Section, shall be punished with a fine not exceeding five hundred rupees.

Penalty for detaining Mails or opening mail bags.

XLV. Every person who shall fraudulently retain, or wilfully secrete, or make away with, or keep or detain, or, being required to deliver up by an Officer of the Post Office, shall neglect or refuse to deliver up a Post letter or other article which ought to have been delivered to any other person, or a mail bag, box or packet containing a letter or other article which shall have been sent by the Post, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding two years, and shall also be liable to fine.

Penalty for retaining letters, &c., delivered by mistake.

XLVI. *Clause* 1.—Every person who shall convey, otherwise than by the Post, a letter not excepted from the said exclusive privilege conferred on the Government of India by Section 5 of this Act shall, for every letter so conveyed, forfeit a sum not exceeding fifty rupees.

Penalty for conveying letter in breach of privilege.

Clause 2.—Every person who shall perform, otherwise than by the Post, any services incidental to conveying letters from place to place, whether by receiving, taking up, ordering, collecting, carrying, tendering or delivering a letter or letters not excepted from the said exclusive privilege, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for performing, otherwise than by the Post, any services incidental to conveying letters.

Clause 3.—Every person who shall make a collection of letters for the purpose of transmitting them through the Post in a clubbed packet, and every person who shall knowingly tender

Penalty for making clubbed packet or tendering or delivering letter to be sent therein.

or deliver a letter to be sent in a clubbed packet, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for sending letter in breach of privilege, or delivering letter to be sent.

Clause 4.—Every person who shall send a letter not excepted from the said exclusive privilege, otherwise than by the Post, or shall either tender or deliver a letter not so excepted, in order to be sent otherwise than by the Post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for collecting excepted letters to send them otherwise than by Post.

Clause 5.—Every person who shall make a collection of excepted letters for the purpose of sending them otherwise than by the Post, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for breach of provisions of Section 6.

Clause 6.—Every person who shall carry, receive, tender or deliver a letter, or collect letters contrary to the provisions of Section 6 of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees.

Penalty for practice of acts mentioned in this Section.

Clause 7.—Every person who shall be in the practice of committing any of the acts mentioned in this Section, shall, for every week during which the practice shall be continued, forfeit a further sum not exceeding five hundred rupees.

Penalty for neglect on the part of persons employed to carry Mails.

XLVII. Every person employed to convey or deliver any mail bag or box, or any letter or other article sent by Post, who shall be guilty, while so employed, of drunkenness, carelessness or other misconduct, whereby the safety of any such bag, box, or letter or other article shall be endangered; or who shall loiter or make delay in the conveyance or delivery of any such bag, box, letter or other article; or who shall not use proper care and diligence safely to convey or deliver any such bag, letter or other article, shall be liable to a fine not exceeding fifty rupees; and any person employed to deliver a letter or other article sent by the Post, who shall not duly deliver the same, shall, within a reasonable time not exceeding twenty-four hours, report the fact at the Post Office where he received such letter or other article,

and return the same; and if any such person shall wilfully make a false report, he shall be liable to a fine not exceeding fifty rupees.

Penalty for stealing, &c., or opening letters, &c., by persons employed in the Post Office.

XLVIII. Whoever being in the employ of the Government in the Post Office Department, shall steal, fraudulently appropriate, or wilfully secrete, destroy or throw away any letter or other article sent by Post, or anything contained in any such letter or other article, or shall mutilate or break open any such letter or other article, or any mail bag or box, with the intention of fraudulently appropriating anything therein contained, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code, for a term not exceeding seven years, and shall also be liable to fine.

Penalty for fraudulently altering marks on letters, &c., by persons employed in the Post Office.

XLIX. Whoever being in such employ as last aforesaid, shall fraudulently put any wrong mark on any letter or other article, or shall fraudulently alter, remove or cause to disappear any mark or stamp which is on any letter or other article; or shall fraudulently use or place with or upon any letter or other article, any stamp which shall have been removed from any other letter or other article; or, being entrusted with the delivery of any letter or other article, shall knowingly demand or receive any sum of money for the postage thereof other than the sum duly chargeable for such postage, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for preparing incorrectly or altering or secreting documents by persons employed in the Post Office.

L. Whoever being in such employ as last aforesaid, and being entrusted with the preparing or keeping of any document, shall, with a fraudulent intention, prepare the document incorrectly, or alter that document, or secrete or destroy that document, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for sending letters on which postage has not been paid or charged by persons employed in the Post Office.

LI. Whoever being in such employ as last aforesaid, shall send by the Post, or put into any mail bag or box, any unstamped letter or other article upon which postage has not been paid or charged in the manner prescribed in this Act, intending thereby to defraud the Government of the postage on such letter or other article, shall be punished, on conviction before a Criminal Court, with imprisonment of either description as defined in the Indian Penal Code for a term not exceeding two years, and shall also be liable to fine.

Penalty for abetting or concealing offences under this Act.

LII. Whoever abets, within the meaning of the Indian Penal Code, or conceals any offence made punishable by this Act, shall be punished with the punishment provided for such offence.

Any person charged with offence punishable with fine only may be summarily convicted.

LIII. Any person, whether a European British subject or not, who shall be guilty of any offence for which according to the provisions of this Act he shall be liable to a fine only, shall be punishable for such offence by any Criminal Court upon summary conviction.

Conviction to be quashed on merits only.

LIV. No conviction, order or judgment of any Criminal Court, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds, but the depositions taken or a copy of them shall be returned with the conviction, order or judgment, and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be aided by what so appears in such depositions.

Form of conviction.

Magistrate may refer charge to his Assistant.

LV. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant, and in such case every such Assistant

or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Magistrates acting judicially.

Fines—how levied.

LVI. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Criminal Court or by any Assistant to a Magistrate or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named Officers. In case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take security by way of recognizance or otherwise. If upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

Share of fine to informer.

LVII. A share not exceeding one moiety of every fine imposed and recovered under this Act, may be awarded to the informer.

No proceedings for recovery of fines to be taken without an order.

LVIII. No proceedings shall be taken for the recovery of any fine imposed under the authority of this Act, for offences punishable by fine only, without an order of Government, or an order in writing under the hand of the Director General of the Post Office, or of a Post Master General, or other Officer specially invested with the powers of a Post Master General.

Post Office servants committing offences in allied States.

LIX. If any public servant who shall be employed in the Post Office Department, or shall be appointed a vendor of postage stamps, or entrusted by the Government of India or any local Government with the sale of postage stamps within the dominions of any Foreign Prince or State in India in alliance with Her Majesty, in which a post shall be established by the Government of India, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed, appointed or entrusted as aforesaid within British India, such public servant shall be guilty of an offence, and, on conviction thereof, shall be punished in the same manner as if such act had been done or omitted within British India: and every such person may be tried, convicted and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General of India in Council, to take cognizance of offences committed in such dominions by public servants, or by any Court or Magistrate, or other competent Officer in any part of British India, in the same manner as if the offence had been committed in such part.

Letters, &c., suspected to contain contraband articles, or writing in contravention of this Act, how to be dealt with.

LX. If any Officer in charge of a Post Office shall suspect that any letter or other article lying for delivery at his Office contains any contraband article, or any article on which duty is owing to Government; or that any letter or other article lying for delivery at the Post Office contains any writing or enclosure in contravention

of the provisions of Section 14, 16 or 43 of this Act, it shall be lawful for such Officer to summon the person to whom the letter or other article is directed, to attend at the Post Office by himself or agent, within forty-eight hours after the arrival thereof at that Post Office, and to open the same in the presence of the person to whom it is directed, or of that person's agent, and if that person shall not so attend by himself or agent, then to open it in the absence of that person. Provided that if the Officer in charge be under the rank of a Post Master, he shall call in two respectable persons as witnesses before he shall open a letter or other article in the absence of the person to whom it is addressed. Provided also, that in all cases the opened letter or other article shall be subsequently delivered to the persons to whom it is addressed, unless it be required for ulterior proceedings, and that the opening of the same and the circumstances connected therewith shall be immediately reported to the Post Master General. It shall also be lawful for any Officer in charge of a Post Office to refuse to forward any parcel through the Post Office by sea to any foreign port, or to any place not on the Continent of India, unless such parcel be accompanied by a Custom House Pass.

Property sent by the Post to be laid in the Post Master General.

LXI. Whenever an offence shall be committed in respect of any mail bag or box, or any letter or other article sent by the Post, it shall be lawful to lay, in the charge to be preferred against the offender, the property of such mail bag, box, letter or other article in the Post Master General of the Presidency; and it shall not be necessary in the charge to allege or to prove upon the trial or otherwise, that such mail bag, box, letter for other article was of any value; and in any charge to be preferred against any person employed under the Post Office for any offence committed against this Act, it shall be lawful to state that such offender was employed under the Post Office at the time of committing the offence, without stating further the nature or particulars of his employment.

PART VIII.

Miscellaneous.

Letters on Her Majesty's Service, duly certified as such, how to be charged.

LXII. Letters and other articles on Her Majesty's Service, certified to be such by the signature of any public Officer authorized in that behalf by the Governor-General of India in Council, shall be forwarded by the Post, and the postage due thereon shall be charged to or recovered from the several public Departments to or from which such letters or packets are sent, in such manner as the said Governor-General of India in Council shall, from time to time, direct.

Governor-General in Council may frame rules.

LXIII. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the conduct of the Post Office not inconsistent with this Act, and therein to prescribe the regulations, conditions and restrictions according to which all letters and other articles shall be posted, forwarded, conveyed and delivered.

District Dâks.

LXIV. It shall be lawful for the Governor-General of India in Council from time to time to frame rules for the management of all or any zamíndárí, tháná or other district dâks, and to declare from time to time what portions of this Act shall be applicable to such dâks, and to persons employed in connection therewith.

Government not responsible for loss.

LXV. The Government shall not be responsible for any loss or damage which may occur in respect of any thing entrusted to the Post Office for conveyance; and no person employed by the Government in the Post Office Department shall be responsible for any such loss or damage, unless that person shall cause such loss or damage negligently, maliciously or fraudulently.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
						Calcutta Gazette—
1890	III	Calcutta Port.	105A	Levy of charges for the carriage of passengers' personal effects on the Commissioners' ferry steamers.	40, 24 7 1922	1922, Pt. II, p. 944
"	"	Ditto ...	126, 127	By-laws as to—		
				landing and shipping on inland wharves, and landing and bathing ghâts;	[1]22 7 1872	1872, Pt. I, p. 56.
					[1]21 8 1872	1872, Pt. I, p. 157.
				landing and delivery of goods at the jetties.	[1]17 9 1877	1877, Pt. I, p. 1287.
					[1]15 10 1877	1877, Pt. I, p. 1552.
				Amendments in the by-laws of 17th September, 1877, noted above—		
				Revised by-law No. 4.	[1]9 12 1879	1879, Pt. I, p. 1220.
					[1]16 2 1880	1880, Pt. I, p. 146.
				Revised by-law No. 7.	[2]84, 17 7 1888	1888, Pt. I, p. 655.
				Revised by-law No. 10.	193, 30 9 1891	1891, Pt. I, p. 921.

[1] These Notifications were issued under Ben. Act V of 1870, but appear to be kept in force by section 2 (3) of Ben. Act III of 1890.

[2] This notification was issued under Ben. Act, IV of 1880, but appears to be kept in force by section 2(3) of Ben. Act III of 1890.

make an advance of money by way of loan within the meaning of this Section.

Remuneration of Agents, &c., by profits not to make them partners.

II. No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Certain annuitants not to be deemed partners.

III. No person being the widow or child of the deceased partner of a trader, and receiving by way of annuity a portion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of or to be subject to any liabilities incurred by such trader.

Receipt of profits, &c., not to make the seller a partner.

IV. No person receiving by way of annuity or otherwise a portion of the profit of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of, or be subject to, the liabilities of the person carrying on such business.

Interpretation of "person."

V. In the construction of this Act, the word "person" shall include a Partnership Firm, a Joint Stock Company, and a Corporation.

HIGH COURT'S CRIMINAL PROCEDURE AMENDMENT ACT, 1865.

ACT No. XVI OF 1866.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to relieve the Governor-General of India in Council from the duty of signing the Commissions mentioned in Sections 22 and 44 of the High Courts' Criminal Procedure Amendment Act, 1865.

Recites expediency of relieving the Governor-General of India in Council from signing Commissions under Act XIII., 1865, Sections 22, 24.

1. Authorizes a seal for the purpose of sealing such Commissions to be made with the inscription "Seal of the Governor-General of India in Council."

Preamble.

WHEREAS it is expedient to relieve the Governor-General of India in Council from the duty of signing the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865;" It is enacted as follows :—

Seal to be made.

I. A Seal shall be made at the expense of the Government of India with this inscription, "The Seal of the Governor-General of India in Council," and shall be kept in the custody of such person as the Governor-General of India in Council shall from time to time appoint in that behalf, and the Commissions respectively mentioned in Sections 22 and 44 of "The High Courts' Criminal Procedure Amendment Act, 1865," may be stamped with such Seal by such person as the Governor-General of India in Council shall from time to time appoint in that behalf; and when so stamped shall be equally valid and effectual as if they had been signed by the Governor-General of India and the Members of his Council.

Stamping of Commissions under Act No. XIII of 1865, Sections 22 and 44.

CALCUTTA INDIAN MUSEUM.

ACT No. XVII OF 1866.

(Received the assent of the Governor-General on the 23rd March 1866.)

An Act to provide for the establishment of a Public Museum at Calcutta.

1—2. Directs that the Governor-General of India in Council shall cause a building to be erected in Calcutta on site specified for purposes specified; such building (2) to be constructed on plans, &c., to be approved by the Government and the Council of the Asiatic Society, and to be completed within five years from the passing of this Act; and kept in repair by Government, which also pay all the expenses of the said Museum.

3—4. Directs who shall be the Trustees of the Museum, and constitutes them a Body Corporate; and (4) authorizes them to receive bequests, &c., and vests on them the property of the Museum, &c.

5—6. Limits the office of ex-Officio Trustee to the deviation of his office, and provides for the appointment of an additional Trustee when

PART VI.

Bengal Acts.				Rules and Orders		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1891	II	Hackney-carriages.	1 (3)	Extending the Act to the following places in the following districts (*contd.*):—		
				BIRBHUM DISTRICT—		
				Suri Municipality and the railway feeder roads connecting it with Sainthia and Ahmedpur.	1037, 20 3 1893	Vol. III, p. 1772.
				The roadway leading from the Ahmedpur road to the site selected for a hackney carriage stand within the Suri Railway station yard.	2011, 18 12 1908	Ditto, p. 1783.
				BOGRA DISTRICT—		
				Bogra Municipality ...	1168, 28 8 1913	Ditto, p. 1785.
				BURDWAN DISTRICT—		
				Asansol Municipality	3069, 5 6 1897	Ditto, p. 1776.
				Kalna " ...	1611, 14 12 1910	Ditto, p. 1784.
				Katwa " ...	1503, 20 4 1916	Ditto, p. 1786
				Raniganj " ...	2552, 20 9 1892	Ditto, p. 1771.
				CHITTAGONG DISTRICT—		
				Chittagong Municipality.	354, 6 10 1893	Ditto, p. 1775.
					1334, 27 4 1914	Ditto, p. 1786.

II. The said building shall be constructed according to such plans and specifications as shall have been approved of and agreed upon by and between the Secretary to the Government of India in the Public Works Department for the time being and the Council of the said Society; and in case the said Secretary and Council shall be unable to agree with reference to any such plans or specifications, the point or points on which they shall so disagree shall be referred to the final decision of the Governor-General of India in Council. Such building shall be completed, so far as to be in a condition to receive the collections mentioned in Section 11 of this Act, within five years from the date of the passing of this Act; and the Government of India shall keep the building in repair, and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Indian Museum.

Building to be erected according to plans approved by the Secretary to the Department of Public Works and the Council of the Asiatic Society.

Trustees of the Indian Museum incorporated.

III. The Chief Justice of the High Court of Judicature at Fort William in Bengal,

the Bishop of Calcutta,

the Vice-Chancellor of the University of Calcutta,

the Secretary to the Government of India in the Home Department,

four other persons to be nominated by the Governor-General of India in Council,

the President of the Asiatic Society of Bengal and three other Members of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,

and their successors, appointed as hereinafter directed and subject to the provisions hereinafter contained, shall be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist five Members thereof.

IV. It shall be lawful for the said Body Corporate to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and to hold the same and to lay out such money for the purposes of the said Indian Museum in the improvement and enlargement of the collections deposited in, presented to or purchased for the said Museum, and all such collections shall become the property of said Body Corporate for the purposes of their Trusts herein mentioned; and the said Body Corporate shall have the exclusive possession, occupation and control, for the purposes of such Trusts, of the said building, other than those portions thereof which upon its completion shall be set apart by the said Body Corporate for the records and offices of the Geological Survey of India, and for the accommodation of the said Society, and the reception of their Library, Manuscripts, Maps, Coins, Busts. Pictures, Engravings and other property.

Trustees empowered to receive bequests, donations and subscriptions.

V. The persons for the time being holding the offices respectively mentioned in Section 3 of this Act shall be ex-officio Members of the said Body Corporate, and shall cease to be such Members respectively upon ceasing to hold the said offices respectively. In the event of any two of the said offices being held by the same person, it shall be lawful for the Governor-General of India in Council from time to time to nominate such other person as to him may seem fit, to be a Trustee under this Act so long as the said two offices shall be held by one person. Provided that when and so often as the said Chief Justice, Bishop, Vice-Chancellor, Secretary to the Government of India in the Home Department, or Superintendent of the Geological Survey of India shall also be the President of the said Society, the Council of the Society may nominate any other person being a Member of the Society to be a Trustee under this Act so long as such Presidency shall be held by the said Chief Justice, Bishop, Vice-Chancellor, Secretary or Superintendent.

Ex-officio Members

Provision in case of two offices being held by one person.

Power to appoint new Trustees.

VI. If any of the said Trustees to be nominated by the Governor-General of India in Council or by the Council of the said Society, or any Trustee appointed as herein provided, shall die or be absent from India for a period exceeding twelve months, or desire to be discharged, or refuse or become incapable to act, then and in every such case it shall be lawful for the Governor-General of India in Council or the Council of the said Society, as the case may be, to appoint a new Trustee in the place of the Trustee so dying or being absent from India or desiring to be discharged or refusing or becoming incapable to act as aforesaid, and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Quorum.

VII. At all meetings of the said Body Corporate, five shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Power to Trustees to make, alter and repeal bye-laws and to appoint officers and servants.

VIII. It shall be lawful for the said Body Corporate from time to time to make, alter and repeal bye-laws consistent with this Act for the management of the said Museum, for the summoning, holding and adjournment of General and Special Meetings of Members of the Body Corporate, for securing the attendance of the Members at such meetings, for the provision and keeping of minute books and account books, for the compiling of catalogues and for all other purposes necessary for the execution of their Trust. And all officers and servants, salaried or otherwise, employed in the care or management of the Trust property shall be appointed, and may be removed or suspended by the said Body Corporate, subject to such regulations and conditions as such Body Corporate shall think proper, and such officers and servants shall be considered public servants within the meaning of the Indian Penal Code.

Trustees may exchange or sell duplicates.

IX. It shall be lawful for the Trustees from time to time to order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities to be exchanged

for manuscripts, books or other objects of interest, or to direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Trustees shall furnish annual reports and accounts.

X. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings, acts, and ordinances for the past twelve months, and further shall furnish on or before the same day in each year to such Auditor as the Governor-General of India in Council shall appoint in this behalf accounts of all monies expended by the Trustees during the past twelve months supported by the necessary vouchers. The said report and accounts shall be annually published for general information.

Asiatic Society to remove their collections to the new building.

XI. The Council of the said Society shall cause the collections belonging to the Society and illustrative of Indian Archæology and the several branches of Natural History, and all additions that may be made thereto, whether before or after the time next hereinafter mentioned, to be removed to and deposited in the said building, at the expense of the Government of India, as soon as the same shall be completed so far as aforesaid.

The Asiatic Society to retain their Library, &c., and the Council of the Society to have exclusive possession of the portions of the new building to be set apart for the Society.

XII. The said Society shall continue to have the same exclusive property in and control over their said Library, Manuscripts, Maps, Coins, Busts, Pictures and Engravings, which they at present possess, and the Council of the said Society shall have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which shall, upon its completion, be set apart for the accommodation of the said Society and the reception of their Library and other property mentioned in Section 4 of this Act.

Collections of Asiatic Society to be kept distinguished in the Museum.

XIII. Every article in the collections and additions mentioned in Section 11 of this Act shall be marked and numbered and shall (subject to the provisions contained in Sections 9,

14 and 15 of this Act) be kept and preserved in the said Indian Museum with such marks and numbers, and an inventory of such articles shall be made by the said Society, and, on such articles being deposited as aforesaid, one copy of such inventory shall be signed by the said Trustees, and kept by the said Society, and another copy shall be signed by the Council of the said Society, and kept by the said Trustees. All objects taken in exchange under Section 9 of this Act for, and all monies payable on sale under the same Section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Custody of the collections of the Asiatic Society until completion of the new building.

XIV. Until the said building shall be completed so far as aforesaid, the said collections of the said Society and all additions that may be made thereto in the mean time shall remain in the house in which they are at present, but under the care of such persons as by the Trustees shall be approved and nominated in this behalf, with such salaries and allowances as, subject to the approval of the Government of India, the Trustees shall limit and direct; and the said collections and additions shall be open to all persons desirous to view the same, under such rules as by the said Trustees shall be established, and the said salaries and allowances shall be paid by the Government of India.

In case of determination of Trust, Asiatic Society may reclaim their collections.

XV. In the event of the Trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in Section 11 of this Act shall become the property of the said Society or their assigns; and the said Society shall vacate the portions of the said building which shall have been set apart as in the twelfth Section of this Act is mentioned; and such portions shall then become the property of the Government of India, anything in this Act contained to the contrary notwithstanding.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1891	II	Hackney carriages.	32 (*1*), 45 (*2*), 49.	Prescribing, for the purposes of sections 32 (*1*), 45 (*2*) and 49, the following languages for use in the following places :—		
				Asansol Municipality (English and Bengali).	3069, 5 6 1897	Vol. III, p. 1776.
				Provincial Road between Bankura and Raniganj (English and Bengali).	2731, 3 7 1896	Ditto, p. 1775.
				Kotchandpur Municipality (English and Bengali).	3741, 17 6 1898	Ditto, p. 1777.
„	„	Ditto ...	53	By-laws for the following Municipalities :—		Calcutta Gazette—
				Azimganj ...	1427. 4 11 1912	1912, Pt. IB, p. 183.
				Bogra ...	409, 8 2 1915	1915, Pt. IB, p. 40.
				Champdani ...	1696. 23 6 1916	1916, Pt. IB, p. 205.
				Dinajpur ...	1841, 10 7 1916	1916, Pt. IB, p. 229.
				Dum-Dum (North)	2395, 16 9 1903	1903, Pt. IB, p. 212.
					2103, 8 11 1906	1906, Pt. IB, p. 179.

19. Wool ... ... Free.
20. Hides and Skins, raw ... ... „
21. Raw Silk and Silk Chussum ... ... „
22. Grain and Pulse, two annas the Indian maund } of forty seers of eighty
23. Indigo, three Rupees the Indian maund } tolahs to the seer.
24. Lac Dye and Shell Lac..... ...four per cent. *ad valorem.*
25. All country articles not enumerated or named above,.....three per cent. *ad valorem.*

This Act to be read with Act No. XXV of 1865.

II. This Act shall be read with, and taken as part of, Act No. XXV of 1865.

MADRAS PRICE OF SALT.

ACT No. XIX OF 1866.

(Received the assent of the Governor-General on the 24th March 1866)

An Act to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council.

Recites expediency of raising the price of Government Salt in Madras Presidency.

1—2. Repeals Act VI, 1844, Section 43; and substitutes a new Section 43, enhancing the price to one rupee and eleven annas the maund, and (2) makes the new Section part of Act VI, 1844.

Preamble.

WHEREAS it is expedient to enhance the price of Salt manufactured and sold under the orders of the Governor of the Presidency of Fort Saint George in Council for consumption in that Presidency; It is enacted as follows:—

New Section substituted for Section 43 of Act No. VI of 1844.

I. Section XLIII of Act No. VI of 1844 is hereby repealed, and in lieu thereof the following Section shall be substituted (that is to say):—

XLIII. The price to be paid to the Government of the Presidency of Fort Saint George, for Salt manufactured and sold under the orders of the Governor of the Presidency in Council for consumption within the Territories subordinate to the same Presidency shall, from and after the passing of this Act be one

Rupee and eleven annas for every three thousand two hundred tolahs weight of Salt.

This Act to be read with Act No. VI of 1844.

II. This Act shall be read with, and taken as part of, Act No. VI of 1844.

THE INDIAN REGISTRATION ACT, 1866.

ACT No. XX OF 1866.

(Received the assent of the Governor-General on the 2nd April 1866.)

An Act to provide for the Registration of Assurances.

Recites the expediency of consolidating, &c., the Law relating to the registration of Assurances.

PART I.

Preliminary. 1—4.

1. Names the Act.

2. Interprets the words British India, Year, Month, Section, Lease, Will, Instrument, Obligation, Signature, Signed, Immoveable Property, Moveable Property, Book, Endorsement, Endorsed, Representative, Oath, Imprisonment, Person, Addition, Words of Number and Gender, Local Government, High Court, District Court, Civil Court, General Registry Office, District, Sub-District.

3. Repeals Acts XVI, 1864, and IX, 1865.

4. Authorizes the Governor-General in Council to declare that, in Territory under the immediate administration of the Government of India, the Head Executive Officer shall exercise all the powers of Local Government, &c.

PART II.

Of the Registration Establishment. 5—16.

5—8. Authorizes the establishment of a General Registry Office, and Branch General Registry Offices; and (6) directs the Local Governments to form Districts and Sub-Districts for the purposes of this Act; and (7) Registry Office and Sub-Registry Office in each respectively, and (8) appoint Registrars, who may be Public Officers or not.

9-12. Provides, in case of absence on duty of Registrar-General or Branch Registrar-General, for the appointment by those Officers of a

Deputy ; and (10) authorizes Registrar-General to appoint an officiating, in case of absence of District Registrar ; and (11) Registrar to appoint Sub-Registrar to officiate for him; and (12) to appoint any person to officiate for Sub-Registrar.

13. Directs that all appointments made under Sections 9, 10, 11, and 12 be reported, &c., to Local Government.

14. Authorizes Local Government, with sanction of Governor-General in Council, to assign salaries to Registering Officers.

15. Directs that Registrar-General, Branch Registrar-General, and Registrars, and Sub-Registrars shall have a seal with specified inscription.

16. Directs the establishment of Offices for registration with books, &c., to be prescribed by Registrar-General, &c.

PART III.

Of Registration Documents. 17—21.

17—18. Describes the instruments, the registration of which is compulsory ; and (18) the documents, the registration of which is permitted and is optional.

19—20. Directs that documents in a language not understood by the Registering Officer, not commonly used in the District, may be refused registration, unless accompanied by a true translation and a copy ; and (20) registration may be refused of documents in which there shall appear any interlineation or other specified faults, &c.

21. Directs as to instruments relating to immoveable property that registration may be refused unless they contain a sufficient description to identify the property, &c.

PART IV.

Of the Time of Registration. 22—28.

22—25. Prohibits registration of documents mentioned in Section 17, Clauses 1, 2, 3, and 4 later than 4 months after execution of document, and (23) later than 2 months after execution of documents mentioned in Section 24, except as in Section 24 mentioned ; but (24) in case of delay to present for registration owing to urgent necessity or unavoidable accident, registration may be made, on payment of specified penalty, if delay does not exceed four months, exclusive (25) of Sunday or Holiday, being the proper dates for registration

26. Provides specially as to registration of Will or Authority to adopt (*see* Part IX).

27. Directs an altered reading of Act XIV, 1859, Section 1, Clause 10.

28. Saves from operation of this Act, certificate or other document required to be registered by the Bankrupt Law Consolidation Act, 1849, Section 143, or any other Act of Parliament.

PART V.

Of the place of Registration. 29—33.

29.—32. Instruments relating to immoveable property to be registered in Office of Sub-Registrar of District, where property is situate; and (30) other instruments in Office of District where executed, &c.; but (31) Registrar-General may register the instruments relating to immoveable property at his discretion, &c.; and (32) any Registrar may register any instrument which might be registered in any subordinate District.

33. Provides for Registering Officer attending at house of persons intending to register, on special cause being shown, &c.

PART VI.

Of the Presentation of Instruments for Registration. 34—36.

34. Instruments to be presented either by person executing or by representative or assignee or agent authorized by power of Attorney; and (35) prescribes condition as to execution and authentication of such powers; and (36) prescribes conditions as to the duty of the Registering Officer on presentation of document to him.

PART VII.

Of the Enforcement of attendance of Executants and Witnesses. 37—40.

37. Prescribes procedure for procuring the attendance of persons before Registering Officer; which is to be (38) by summons, &c., except (39) as to specified classes of persons; and (40) how, as to summonses generally, to apply to summonses under this Act.

PART VIII.

Of sending to a Registering Officer Memoranda of Decrees and Orders affecting Immoveable Property. 41—43.

41. Directs as to decrees, &c., affecting the validity, &c., of registered document relating to immoveable property; and (42) relating to moveable property, &c, that a memorandum of such decree be sent by the Court to the District Registrar; (43) the costs of such registration to be paid by the Court.

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1891	II	Hackney carriages.	61 (*1*)	Appointing the Members of the following District Boards and their Chairmen, respectively, to perform the duties and to exercise the powers conferred by the Act on the Commissioners and the Chairman, respectively, of the Calcutta Corporation :—		
				Burdwan ...	3069, 5 6 1897	Vol. III, p. 1776.
				Jessore	3741, 17 6 1898	Ditto, p. 1777.
1893	I	Licensed Warehouse and Fire-Brigade.	2 (*2*)	Extending the Act to a specified portion of the Garden Reach Municipality.	797, 11 4 1902	Ditto, p. 1789.
"	"	Ditto ...	31 (*1*)	Establishing a branch station of the Calcutta Fire-Brigade in the premises of the Garden Reach thana.	1501, 12 3 1904	Ditto, p. 1790.
"	"	Ditto ...	"	Orders for the regulation of the Calcutta Fire-Brigade.	1582, 6 7 1918	Ditto.
"	"	Ditto ...	40	Declaring that any building or place, within the areas mentioned below, which is used for the storing, etc., of the following articles shall be a warehouse under the Act :—		
				Calcutta Municipality—		
				Ullu grass, *golepata*, waste paper and matches.	916, 30 5 1904	Ditto, p. 1792.

(B.) As to the Procedure on admitting to Registration. 66.—71.

66.—69. Describes the particulars to be endorsed on documents admitted to registration; and (67) such endorsements to be dated and signed by Registering Officer; and (68) note of registration, &c., to be endorsed thereon; and (69) such endorsemente and certificate to be entered in Register.

70. Gives further directions as to registration of documents in language unknown to Registering Officer.

71. Authorizes the Registering Officer to administer oath, &c.

(C.) Special Duties of Sub-Registrar. 72.—73.

72. As to documents relating to immoveable property not wholly situate in his own district; and (73) as to where property situate in more districts than one.

(D.) Special Duties of Registrar. 74—77.

74—75. Registrar to send copy of instrument relating to immoveable property to Sub-Registrar of any District in which property is situate; and (75) gives direction as to memorandum.

76. Authorizes registration of Will and Authority to adopt in same manner as any other document.

77. Directs what the Registrar is to do on receipt of sealed cover.

(E.) Of the Registrar-General. 78.

78. Directs him to forward copy of every document registered with him to Registrar of each District in which property is situate.

(F.) Of the Controlling Powers of Registrars and Registrars-General. 79—81.

79—80. Ordains obligation of Sub-Registrars to perform their duties under control, &c., of Registrars; and (80) specifies particulars to which powers of Registrar-General extend.

81. Prohibits order to cancel the registration of any document

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1893	I	Licensed Warehouse and Fire-Brigade.	40	Declaring that any building or place, within the areas mentioned below, which is used for the storing, etc., of the following articles shall be a warehouse under the Act (*contd*) :—		
				GARDEN REACH MUNICIPALITY—		
				Jute in *kutcha* bales ...	1851, 26 11 1908	Vol. III, p. 1794.
				Addition of para. 2 to the Notification of 26th November, 1908, noted above.	1058, 16 10 1909	Ditto, p. 1796.
				Jute in *pucca* bales ...	3061, 4 8 1919	Ditto, p. 1798.
				Hemp, baled or loose	530, 24 9 1919	Ditto, p. 1799.
				HOWRAH MUNICIPALITY—		
				Ullu grass and waste paper.	2772, 12 11 1903	Ditto, p. 1792.
					341, 19 1 1904	Ditto.
				Hogla, shellac, cocoa-nut fibre, *durma* mats and packing boxes.	118, 23 4 1907	Ditto, p. 1793.
				Jute in *kutcha* bales ...	134, 20 1 1909	Ditto, p. 1795.
				Addition of para. 2 to the notification of 20th January, 1909, noted above.	963, 2 10 1909	Ditto.
				Hemp	1561, 16 11 1912	Ditto, p. 1797.
				Rattan canes or empty barrels.	195, 20 1 1913	Ditto.

100. Enlarges the time for registration to 12 months after Act comes into operation, as respects all documents executed before Act came into operation.

101. Gives validity to certain specified powers of Attorney for three months after Act comes into operation.

102. Gives directions as to transfer and custody of antecedent Register Books and Indexes.

SCHEDULE. Form of Petition under Section 84.

Preamble.

Whereas it is expedient to consolidate and amend the laws relating to the Registration of Assurances; It is enacted as follows:—

PART I.

Preliminary.

Short Title.

I. This Act shall be called "The Indian Registration Act, 1866."

Interpretation clause.

II. In this Act—unless there be something repugnant in the subject or context—

"British India."

'British India" denotes the Territories which are or may become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 186, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca:

"Year" and "Month."

"Year" and "Month" respectively mean a year or month reckoned according to the British Calendar:

"Section."

"Section" denotes a Section of this Act:

"Lease."

"Lease" includes a counterpart, a kabúliyat, an undertaking to cultivate or occupy, and an agreement to lease; but not a pattá or muchalká, as respectively defined in Section 3 of Act No. VIIII of 1865 of the Governor of Fort St. George in Council, executed in the Madras Presidency:

"Will."

"Will" includes a codicil and every writing making a voluntary posthumous disposition of property:

"Instrument."

"Instrument" does not include a Will nor an Authority to adopt:

"Obligation."

"Obligation" denotes any instrument by which one person (hereinafter called the obligor) binds himself absolutely or conditionally to pay money to another person (hereinafter called the obligee), and includes a Bond, a Bill of Exchange, a Hundí and a Promissory Note:

"Signature." "Signed."

"Signature" and "Signed" include and apply to the affixing of a mark:

"Immoveable property."

"Immoveable property" includes land, buildings, rights to ways, lights, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth; but not standing timber, growing crops nor grass:

"Moveable Property."

"Moveable Property" includes standing timber, growing crops, grass, fruit upon trees, and property of every other description, except immoveable property:

"Book."

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Endorsement." "Endorsed."

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering-slip to any document tendered for registration under this Act:

"Representative."

"Representative" includes the guardian of an Infant and the Committee or other legal curator of a Lunatic or Idiot:

"Oath."

"Oath" includes a solemn affirmation:

"Imprisonment."

"Imprisonment" means imprisonment of either description as defined in the Indian Penal Code:

"Person."

"Person" includes any Company or association or body of persons whether incorporated or not:

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1895	III	Land Records Maintenance.	36	Rules for the working of the Act.	5306, 9 12 1895	Bengal Land Records Maintenance Manual, 1895, p. 1.
				Amendments in the above rules of 9th December, 1895 :—		
				Addition to Chapter II, clause 1.	812, 23 2 1897	Vol. III, p. 1801.
				New rule 10 for Chapter II.	1637, 15 4 1897	Ditto.
				Revised Chapter III for Western Bengal.	371, 4 5 1908	Ditto.
1896	I	Protection of Muhammadan Pilgrims.	3 (2)	Rules regulating the grant of licenses to pilgrim brokers, and prescribing the conditions to be embodied therein.	133, 9 1 1897	Ditto, p. 1802.
1897	V	Estates Partition.	121	Rules for the working of the Act.	4015, 27 10 1919	Ditto, p. 1807.
1899	III	Calcutta Municipality.	3(*12*)(*b*)	Declaring cerebro-spinal meningitis to be a dangerous disease.	186, 7 6 1918	Ditto, p. 1810.
"	"	Ditto ...	8(*3*)	Rules regulating the appointment of Commissioners.	1270, 9 7 1900	Ditto.
"	"	Ditto ...	18	Delegation of functions of the Chairman.	...	Calcutta Corporation Manual, 1910, pp. 261 to 273.
"	"	Ditto ...	68 (1)	Rules prescribing the qualifications of candidates for employment in the Health, Conservancy and Engineering Departments.	855, 11 4 1908	Vol. III, p. 1810

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1899	III	Calcutta Municipality	68(1)	Amendments in the rules of 11th April, 1908, noted *ante*—		
				Revised rule 2 ...	935, 10 4 1913	Vol. III, p. 1811
				Amendment of revised rule 2.	37, 9 1 1920	Ditto, p. 1814.
					2240, 3 8 1920	Ditto.
				Amendment of rule 3	628, 7 7 1909	Ditto, p. 1811.
				New rules 5A, 5B and 5C.	36, 9 1 1920	Ditto, p. 1813.
				Revised rule 7 ...	935, 10 4 1913	Ditto, p. 1811.
				Amendment of revised rule 7.	4873, 12 9 1922	Ditto, p. 1815.
				New rule 7A ...		
				New rules 8, 8A, 8B in lieu of rule 8.	291, 18 5 1918	Ditto, p. 1812.
				Revised rules 10, 11 and 12.	935, 10 4 1913	Ditto, p. 1811.
"	"	Ditto ...	73(a)	Rules regarding the security to be furnished by Municipal officers or servants.	1295, 7 10 1907	Ditto, p. 1815.
				Amendment in Form A of these curity bond appended to the rules of 7th October, 1907, noted above.	1854, 10 7 1914	Ditto, p. 1816

VII. The local Government shall establish in every District an Office to be styled the Registry Office, and in every Sub-District an Office to be styled the Sub-Registry Office.

Establishment of Registry and Sub-Registry Offices.

VIII. The local Government may appoint such persons, whether Public Officers or not, as it may think proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid respectively.

Appointment of Registrars and Sub-Registrars.

IX. During the absence on duty of the Registrar General or Branch Registrar General from the place where the General Registry Office is established, it shall be lawful for him to appoint the Registrar of such place, or with the previous sanction of the local Government such other person as he shall think fit, to perform the duties of the Registrar General, except those mentioned in Sections 80 and 83. A Registrar so appointed shall perform such duties in addition to his own duties as Registrar. During such absence the Registrar or other person so appointed as aforesaid shall be styled the Deputy Registrar General or Deputy Branch Registrar General, as the case may be, and may use the Seal of the Registrar General or Branch Registrar General, as the case may be.

Appointment of Deputy Registrar General to perform duties of Registrar General except those mentioned in Sections 80 and 83, during his absence on duty.

X. In case of the absence from his District or of a vacancy occurring in the Office of any Registrar other than the Registrar of a District including a Presidency Town, any person whom the Registrar General shall appoint in this behalf, or in default of such appointment, the Judge of the District Court, shall during such absence or vacancy be the Registrar. In case of the absence of the Registrar of a District including a Presidency Town, or of a vacancy occurring in the Office of any such Registrar, it shall be lawful for the Registrar General to appoint any person whom he may think proper to conduct the duties of the Office of such Registrar.

Provision for cases of absence of a Registrar from his District or vacancy in his Office.

Provision for case of Registrar's absence from Office on duty in his District.

XI. In case of the absence of any Registrar from his Office on duty in his District, it shall be lawful for him to appoint any Sub-Registrar in his District to perform, during such absence, all the duties of a Registrar except those mentioned in Sections 79 and 83.

Provision for cases of absence of Sub-Registrar or vacancy in his Office.

XII. In case of the absence of any Sub-Registrar, or of a vacancy occurring in the Office of any Sub-Registrar, any person whom the Registrar of the District shall appoint in this behalf shall, during such absence or vacancy, be Sub-Registrar.

Appointments under Section 9, 10 11 or 12 to be reported to local Government.

XIII. All appointments made under Section 9, 10, 11 or 12 shall be reported to the local Government by the Registrar General or Branch Registrar General, as the case may be. Such report shall be either special or general, as the local Government shall direct; and the local Government shall have power to suspend, remove or dismiss any persons appointed under the provisions of this Act, and to appoint other persons in their stead.

Local Government may suspend, remove or dismiss any person appointed under this Act.

Remuneration and establishments of Registering Officers.

XIV. It shall be lawful for the local Government, with the previous sanction of the Governor-General of India in Council, to assign such salaries as such Government may from time to time deem proper, to the Registering Officers appointed under this Act, or to provide for the remuneration of such Officers by fees, or partly by fees and partly by salaries. It shall also be lawful for the local Government, with the like sanction, to allow such establishments for the several Registration Offices as may be necessary for the purposes of this Act.

Seals of Registering Officers.

XV. The Registrar General, Branch Registrar General, and the several Registrars and Sub-Registrars, shall use a seal bearing the following inscription in English and in such other language as the local Government shall direct: "The Seal of the Registrar General

PART VI.

Bengal Acts.				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1899	III	Calcutta Municipality.	85	Rules for the conduct of business at meetings of the Corporation (*concld*).		
				Amendments of the rules of 28th December, 1906, noted *ante*—		
				Revised rule 1 ...	11 12 1919	Vol. III, p. 1836.
				Addition to rule 4 ...	10 12 1912	Ditto.
				Revised rule 12 ...	13 11 1912	Ditto.
"	"	Ditto ...	94	Rules for the conduct of business at meetings of the General Committee—	6 11 1908	Ditto, p. 1837.
				Revised rule 1 of the rules of 6th November, 1908, noted above.	19 12 1919	Ditto.
"	"	Ditto ...	96 (*5*)	Rules for the conduct of business at the meetings of Special Committees.	495, 13 3 1907	Ditto.
				Cancellation of rules 7 and 8 of the rules of 13th March 1907, noted above.	1902, 17 7 1914	Ditto, p. 1838
"	"	Ditto ...	143 (*1*)	Appointing the Accountant-General, Bengal, and the Examiner of Local Accounts to be auditors of the accounts of the Calcutta Corporation.	[1] 30 8 1883	Ditto.
"	"	Ditto ...	330	Regulations for the guidance of licensed plumbers.	11 9 1907	Ditto.

[1] This Notification was issued under section 59 of Ben. Act IV of 1876, but appears to be kept in force under section 143 (*1*) of Ben. Act III of 1899 by section 25 of Ben. Act I of 1899 (General Clauses).

Provided that the former part of this Section shall not apply to any Composition-deed nor to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company shall consist in whole or in part of immoveable property, nor to any endorsement upon or transfer of any debenture issued by any such Company: Provided also that, so far only as regards the Territories respectively under the Governments of the Lieutenant-Governors of Bengal and the North-West Provinces, the local Government may, by order published in the Official Gazette, exempt from the operation of the former part of this Section any leases of immoveable property, executed in any particular District or part of a District, the terms granted by which shall not exceed two years and the annual rents reserved by which shall not exceed fifty rupees.

Exception of Composition-deeds;

And of transfers of shares and debentures in Land Companies.

Documents of which the registration is optional.

XVIII. Any of the documents next hereinafter mentioned may be registered under this Act; (that is to say) :—

1. Instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees to or in immoveable property:

2. Instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest:

3. Leases of immoveable property for any term not exceeding one year, and the pattás and muchalkás referred to in Section 2:

4. Awards relating to immoveable property:

5. Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property:

6. Wills or Authorities to adopt a son:

7. Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts,

Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

Documents in language not understood by Registering Officer.

XIX. If any document duly presented for registration be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

Documents containing interlineations, blanks, erasures or alterations.

XX. It shall be in the discretion of the Registering Officer to refuse to accept for registration any document in which any interlineation, blank, erasure or alteration shall appear, unless the persons executing the document shall attest with their signatures or initials such interlineation, blank, erasure or alteration; and it shall be the duty of the Officer registering such document, at the time of registering the same, to make a note in the Register of such interlineation, blank, erasure or alteration.

Description of parcels in instruments relating to immoveables.

XXI. No instrument relating to immoveable property shall be accepted for registration unless it shall contain a description of such property sufficient to identify the same. Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate and by their superficial contents, the roads and other properties on which they abut, and their occupancies, and also, whenever it is practicable, by reference to a Government map or survey. No document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied

Documents containing maps or plans.

by a true copy of the map or plan, or, in case such property shall be situate in several Sub-Districts, by such number of true copies of the map or plan as shall be equal to the number of such Sub-Districts, and, in case the property shall be also situate in several Districts, by such further number of true copies of the map or plan as shall be equal to the number of such Districts.

PART IV.

Of the Time of Registration.

Time for registering instruments of which the registration is compulsory.

XXII. Subject to the provision contained in Section 24, no instrument of the kinds mentioned in Section 17, Clauses 1, 2, 3 and 4, shall be accepted for registration unless presented for that purpose to the proper Officer within four months from the date of its execution; provided that, where there are several persons executing it at different times, the instrument may be presented for registration and re-registration within four months from the date of each execution.

Time for registering documents of which the registration is optional.

XXIII. Subject to the provision contained in Section 24, no document of any of the kinds mentioned in Section 18 (other than a Will or Authority to adopt a son), shall be accepted for registration unless presented for that purpose to the proper Officer within two months from the date of its execution; provided that, where there are several persons executing it at different times, the document may be presented for registration and re-registration within two months from the date of each execution.

Explanation.—The date of execution of a document means the day on which it purports to have been executed.

Provision where delay in registering is unavoidable.

XXIV. If any instrument shall, owing to urgent necessity or unavoidable accident, not have been presented for registration till after the expiration of the time hereinbefore pre-

scribed in that behalf, it shall be lawful for the Registrar, in cases where the delay in presentation shall not exceed four months, to direct that on payment as a penalty of a sum not exceeding twenty times the amount of the proper registration fee, such instrument shall be accepted for registration.

Provision for last day of period for registration falling on a holiday.

XXV. Whenever the last day of any period hereinbefore provided for the registration of any document shall fall on a sunday or other holiday declared as hereinafter mentioned, such last day shall, for the purposes of this Act, be deemed to be the day immediately following such Sunday or other holiday.

Wills or Authorities to adopt may be registered or deposited at any time.

XXVI. Any Will or Authority to adopt a son may at any time be registered or deposited in manner hereinafter provided.

Alteration of Act No. XIV of 1859, Section 1, Clause 10.

XXVII. In Act No. XIV of 1859, Section 1, Clause 10, the last Clause shall be read as if for the words "within six months from the date thereof" the words "within the time prescribed in that behalf by 'The Indian Registration Act, 1866" were substituted.

Saving of time prescribed by Statute for registration of instruments.

XXVIII. Nothing in this Act shall be taken to alter the time within which any certificate or other document must be registered under the provisions of "The Bankrupt Law Consolidation Act, 1849," Section 143, or any other Act of the Parliament of the United Kingdom of Great Britain and Ireland.

PART V.

Of the Place of Registration.

Place for registering instruments relating to immoveables.

XXIX. Save as in this Act otherwise provided, every instrument mentioned in Section 17, Clauses 1, 2, 3 and 4, and Section 18, Clauses 1, 2, 3 and 4, shall be presented for regis-

tration in the Office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such instrument relates is situate.

Place for registering other instruments.

XXX. Every instrument other than an instrument referred to in the last preceding Section, may be presented for registration in the Office of the Sub-Registrar in whose Sub-District the instrument was executed, or in the Office of any Sub-Registrar under the local Government at which all the persons executing and claiming under the instrument shall desire the same to be registered.

Registration by Registrar General of instruments referred to in Section 29.

XXXI. The Registrar General may in his discretion receive and register any instrument referred to in Section 29, without regard to the situation in any part of British India of the property to which the instrument relates.

Registration by Registrar.

XXXII. Any Registrar may in his discretion receive and register any instrument which might be registered by any Sub-Registrar subordinate to him. He shall also register Wills and Authorities to adopt. The Registrar of a District including a Presidency Town shall be deemed to be a Sub-Registrar within the meaning of this Act for such portion of his District (if any) as shall not have been formed into a Sub-District.

Registration or acceptance for deposit at private residence.

XXXIII. In ordinary cases the registration or deposit of documents under this Act shall be made only at the public Office of the Officer whose duty it shall be to register the same: but any such Officer may on special cause being shown attend at the residence of any person intending to register any document, or of any person desiring to deposit a Will or Authority to adopt a son, and register or accept for registration or deposit such document, Will or Authority. Every Sub-Registrar so attending shall within twenty-four hours report to the Registrar to whom he is subordinate the fact of the attendance and his reason therefor.

PART VI.

Of the Presentation of Instruments for Registration.

Persons to present documents for registration.

XXXIV. Subject to the provisions of the last preceding Section, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper Registration Office by some person executing or claiming under the same, or by the representative or assign of such person, or by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

Powers of attorney recognizable for purposes of Section 34

XXXV. For the purposes of the last preceding Section, the powers of attorney next hereinafter mentioned shall alone be recognized; (that is to say):—

(a.) If the principal at the time of executing the power of attorney resides in any part of British India in which this Act operates, a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(b.) If the principal at the time aforesaid resides in any other part of British India, a power of attorney executed before and authenticated by the Judge of the District Court within the local limits of whose jurisdiction the principal resides:

(c.) If the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India.

Any power of attorney mentioned in this Section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

Provided that persons who by reason of bodily infirmity are unable without risk or serious inconvenience to attend as next hereinafter mentioned, and persons who are in jail under civil or criminal process, and persons exempt by law from personal appearance in Court, shall not be required to attend at the Office of the Registrar or Sub-Registrar, or in the Court of the Judge, for the purpose of executing any such power of attorney as is mentioned in Clauses (*a*) and (*b*) of this Section; but in every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the Office or Court aforesaid. To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal or to the jail in which he is confined and examine him, or issue a Commission for the examination of such person.

Enquiry before registration by the Registering Officer.

XXXVI. Subject to the provisions contained in this Section and in Sections 76, 80, 84 and 89, no document shall be registered under this Act unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the Registering Officer. He shall thereupon enquire whether or not such document was executed by the persons by whom it purports to have been executed, and, in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

If all the persons executing the document appear personally before the Registering Officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document;

Or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent shall admit the execution,

PART VI.

Bengal Acts				Rules and Orders.		
Year.	No.	Subject.	Section.	Subject.	Number and date.	Where published.
1	2	3	4	5	6	7
1899	III	Calcutta Municipality.	350 (*3*)	Defining the general line of buildings on both sides or one side of the following thoroughfares in Calcutta—(*contd*) :—		Calcutta Gazette—
				Ekdalia Road (Ward No. 21).	16 7 1909	1909, Pt. IB, p. 279.
				Gangadhar Babu Lane (Ward No. 8).	12 3 1919	1919, Pt. IB, p. 56.
				Garbari Road (Ward No. 25).	20 10 1911	1911, Pt. IB, p. 194.
				Garcha 1st and 2nd Lane (portion only in Ward No. 21).	3 3 1921	1921, Supplement, p. 477.
				Giri Babu Lane (Ward No. 8).	12 3 1919	1919, Pt. IB, p. 56.
				Gora Chand Darga Road (Ward No. 20).	20 11 1911	1911, Pt. IB, p. 194.
				Gora Chand Road (Ward No. 20).	4 12 1916	1916, Pt. IB, p. 542.
				Guriahat Road (Ward No. 21).	5 1 1910	1910, Pt. IB., p. 7.
				Haji Jackeria Lane (Ward No. 3).	20 10 1911	1911, Pt. IB, p. 194.
				Hara Prosad Dey Lane	16 4 1910	1910 Pt. IB, p. 54.
				Hari Ghosh Street (Ward No. 3).	2 3 1911	1911, Pt. IB, p. 45.
				Haris Chatterjee Street (Ward No. 22).	20 10 1911 24 1 1923	1911, Pt. IB, p. 194. 1923, Pt. I, p. 135.
				Harsi Street (Ward No. 9).	3 8 1912	1912, Pt. IB, p. 137.

or criminal process, and any person exempt by law from personal appearance in Court and who would but for the provision next hereinafter contained be required to attend in person at the Registration Office, shall not be required so to attend; but in every such case, the Registering Officer shall either himself go to the house of such person or to the jail in which he is confined and examine him, or issue a Commission for his examination.

Law as to summonses, Commissions and witnesses in civil suits to apply to summonses, Commissions and witnesses under this Act.

XL. The law in force for the time being as to summonses, Commissions, and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or Commission issued and any person summoned to appear under the provisions of this Act.

PART VIII.

Of sending to a Registry Office Memoranda of Decrees and Orders affecting Immoveable Property.

Memorandum of decree affecting registered document relating to immoveable property to be sent to Registrar within whose District the document was originally registered.

XLI. When any Civil Court shall by a decree or order declare any document relating to immoveable property, which shall have been registered under this Act, to be invalid, or when any Civil Court shall pass a decree or order affecting any such document, and such last mentioned decree or order shall create, declare, transfer, limit or extinguish any right, title or interest under such document to or in the immoveable property to which it relates, such Court shall cause a memorandum of the decree or order to be sent to the Registrar within whose District the document was originally registered.

Memorandum of decree affecting immoveable property to be sent to Registrar in whose District such property is situate.

XLII. When any Civil Court shall, by a decree or order, create, declare, transfer, limit or extinguish any right, title or interest of any person to or in any immoveable property situate in any part of British India in which this Act shall operate, such Court shall cause a

memorandum of the said decree or order to be sent to the Registrar or to every Registrar within whose District the whole or any part of such immoveable property is situate, and such memorandum shall so far as may be practicable describe the property in manner required by Section 21.

Costs of registration of memoranda of decrees and orders.

XLIII. The costs of and attending the registration under Sections 41 and 42 of any memorandum of a decree or order shall be costs in the cause, and shall be paid by the Court to the Registrar or to such other person and in such way as the local Government shall direct in that behalf.

PART IX.

Of the Presentation and Deposit of Wills and Authorities to adopt.

Persons entitled to present for registration Wills and Authorities to adopt.

Presentation or deposit of Wills and Authorities to adopt.

XLIV. The testator or any person claiming as executor or otherwise under a Will, may present to any Registrar for registration such Will, and the donor or donee of any Authority to adopt, or the adoptive son, may present to any Registrar for registration such Authority. Any person entitled to present for registration any such Will or Authority may either personally or by a duly authorized agent present to a Registrar such Will or Authority open, and any testator or donor of such Authority may either personally or by duly authorized agent deposit with any Registrar the Will or Authority in a sealed cover superscribed with the name of the depositor and the nature of the document.

Withdrawal of sealed cover deposited under Section 44.

XLV. If the depositor of any such sealed cover shall wish to withdraw the same, it shall be lawful for him to apply to the Registrar in whose Office such cover shall have been deposited, that the same be delivered to him; and the Registrar, if he shall be satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

XLVI. If on the death of the depositor of a sealed cover under Section 44, application be made to the Registrar in whose Office such cover was deposited to open the same, the Registrar, if he shall be satisfied that the depositor is dead, shall, in the presence of the person making such application, open the cover, and shall copy at the expense of the applicant the contents thereof in his Book No. 4. When such copy shall have been made, the Registrar shall re-deposit the original Will or Authority.

Proceedings on death of depositor.

Re-deposit.

PART X.

Of the Effects of Registration and Non-Registration.

XLVII. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Time from which registered document operates.

XLVIII. All instruments duly registered under this Act and relating to any moveable or immoveable property, shall take effect against any oral agreement or declaration relating to the same property.

Registered instruments relating to property to take effect against oral agreements.

XLIX. No instrument required by Section 17 to be registered shall be received in evidence in any Civil proceeding in any Court, or shall be acted on by any Public Servant as defined in the Indian Penal Code, or shall affect any property comprised therein, unless it shall have been registered in accordance with the provisions of this Act.

Effect of non-registration of documents required to be registered.

L. Every instrument of the kinds mentioned in Clauses 1, 2 and 3 of Section 18 shall, if duly registered, take effect, as regards the property comprised therein, against every unregistered instrument relating to the same property, whether such other instru-

Registered instruments relating to immoveables, of which the registration is optional, to take effect against unregistered instruments.

ment be of the same nature as the registered instrument or not.

Period of limitation in suits under a registered written contract for money lent, or interest, or breach of contract.

LI. Suits to recover money lent or interest, or for the breach of any contract, may be brought within six years from the time when the cause of suit arose, in every case in which there is an engagement or contract in writing, provided that such engagement or contract be duly registered under this Act.

Special Registration of Obligations for Payment of Money.

Record of agreement that amount secured by an obligation may be recovered summarily.

LII. Whenever the obligor and obligee of an obligation shall agree that, in the event of the obligation not being duly satisfied, the amount secured thereby may be recovered in a summary way, and shall at the time of registering the said obligation apply to the Registering Officer to record the said agreement, the Registering Officer, after making such enquiries as he may think proper, shall record such agreement at the foot of the endorsement and certificate required by Sections 66 and 68, and such record shall be signed by him and by the obligor, and shall be copied into the Register Book No. 1 or No. 6, as the case may be, and shall be *primâ facie* evidence of the said agreement.

Enforcement of such agreement.

LIII. Within one year from the date on which the amount becomes payable, or, where the amount is payable by instalments, within one year from the date on which any instalment becomes payable, the obligee of any such obligation registered with such agreement as aforesaid, whether under the said Act No. XVI of 1864 or under this Act, may present a petition to any Court which would have had jurisdiction to try a regular suit on such obligation for the amount secured thereby, or for the instalment sought to be recovered.

Stamp on petition.

The petition shall, where a stamp is required by law, bear a stamp of one-fourth the value prescribed for a plaint in such a suit, and may be

amended by permission of the Court, and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints.

Decree

On production in Court of the obligation and of the said record signed as aforesaid, the petitioner shall be entitled to a decree for any sum not exceeding the sum mentioned in the petition together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by the Court.

Such decree may be enforced forthwith under the provisions for the enforcement of decrees contained in the Code of Civil Procedure.

Power to order obligation to be deposited in Court.

LIV. In any proceedings under this Part of this Act, the Court may order the obligation sought to be proceeded upon to be forthwith deposited with an Officer of the Court, and may further order that all proceedings shall be stayed until the petitioner shall have given security for costs thereof.

Court may, under special circumstances, set aside decree.

LV. After decree, the Court may under special circumstances set aside the decree, and if necessary stay or set aside execution; but there shall be no appeal against any decree or order made under Section 53, Section 54, or this Section.

PART XI.

Of the Duties and Powers of Registering Officers.

(A.) As to the Register Books and Indexes.

Register Books to be kept in the several Offices.

LVI. The following Books shall be kept in the several Offices hereinafter named; (that is to say):—

In all Registration Offices:—

Book 1.—"Register of Instruments relating to immoveable property:"

Book 2.—"Record of reasons for refusal to register."

In the Offices of Registrars:—

Book 3.—"Register of deposits of Wills and Authorities to adopt," and

Book 4.—"Register of Wills and Authorities to adopt."

In the Offices of Registrars and of Sub-Registrars:—

Book 5.—"Register of Decrees and Orders:"

Book 6.—"Miscellaneous Register."

In Book 1 shall be entered all documents registered under Section 17 and the first four clauses of Section 18, and all other documents mentioned in Section 18 clause 7 which relate to immoveable property. In Book 5 shall be filed all Memoranda of Decrees and Orders sent under Section 42 In Book 6 shall be entered all documents registered under clauses 5 and 7 of Section 18, and not entered in Book 1 or in Book 5: Provided that, if the Registrar General shall so direct, wherever Act No. XVI of 1864 is now in force, down to the thirty-first day of December 1866 and no longer, the Books directed to be kept by Section 56 of the same Act shall be kept, and the rules relating to the entries made therein and the Indexes to be made therefor shall be observed, anything in this Act contained to the contrary notwithstanding.

Documents to be copied according to order of presentation.

LVII. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting the same; and, subject to the provisions contained in Section 70, every such document shall without unnecessary delay be copied in the Book appropriated therefor according to the order of its presentation, and a receipt for such document shall be given by the Registering Officer to the person presenting the same.

Entries to be numbered consecutively.

LVIII. All entries in each Book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Current Indexes and entries therein.

LIX. In every Office in which any of the Books next hereinafter mentioned are kept, there shall be prepared current Indexes of the contents of

such Books; and every entry in such Indexes shall be made, so far as practicable, in alphabetical order and immediately after the document to which it relates shall have been copied by the Registering Officer.

Indexes to be made by Registering Officers.

LX. Two such Indexes shall be made in all Registration Offices, and shall be named respectively Index No. I and Index No. II. Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Books Nos. 1, 3 or 4, and the name of the first plaintiff and first defendant in the suit in the case of all memoranda filed in Book No. 5. Index No. II shall contain such particulars mentioned in Section 21, relating to every such document, as the Registrar General may from time to time direct in that behalf. A third Index to be called Index No. III shall be made by Registrars and Sub-Registrars, and shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 6. Indexes Nos. I, II and III shall also contain such other particulars, and shall be prepared in such form, as the Registrar General shall from time to time direct.

Extra particulars in Indexes.

Two copies of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.

*LXI. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals not exceeding one month as the Registrar General shall from time to time direct, two copies of all entries made by such Sub-Registrar during the last of such intervals in Indexes Nos. I and II.

One of each pair of copies received by Registrar from Sub-Registrar to be filed in Registrar's Indexes, and the other to be sent to General Registry Office with a copy of entries in Registrar's Indexes.

LXII. Every Registrar receiving such two copies shall in every month file one of such copies in his Indexes Nos. I and II respectively; and, at such intervals as the Registrar General shall from time to time direct, shall send the other of such copies to the General Registry Office. Every Registrar shall also send to the General Registry Office a copy

of all the entries which he shall have made in his Indexes Nos. I and II respectively during the last of such intervals.

Copies sent by Registrar to be filed in Indexes of General Registry Office.

LXIII. On the receipt in the General Registry Office of the copies so sent by the Registrar, they shall be filed in the Indexes Nos. I and II respectively kept in such Office.

Annual alphabetical Index to entries in Indexes.

LXIV. If the Registrar General shall so direct, an alphabetical Index shall be prepared in every Registration Office at the end of each year of all entries made during the past year in the current Indexes in such Office; and in every Office in which Book No. 2 shall be kept, an alphabetical Index shall be prepared at the end of each year to the entries made in such Book during the past year.

Registering Officers to allow inspection of certain Books and Indexes and to give certified copies of entries.

LXV. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1, 2, and 5 and the Indexes relating to such Books shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of Section 70, copies of entries in such Books shall be given to all persons applying for such copies. Subject to the same provision, copies of entries in Books Nos. 3, 4 and 6 and in the Indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the Registering Officer. Such copies shall be signed and sealed by the Registering Officer, and shall be *primâ facie* evidence of the contents of the original documents.

(B.) As to the Procedure on admitting to Registration.

Particulars to be endorsed on documents admitted to Registration

LXVI. On every document admitted to registration, there shall be endorsed from time to time the following particulars; (that is to say):

1. The signature and addition of every person admitting the execution of the document; and, if such execution shall have been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent:

2. The signature and addition of every person who may have been examined in reference to such document under any of the provisions of this Act; and

3. Any payment of money or delivery of goods made in the presence of the Registering Officer in reference, to the execution of the document, and any admission of receipt of consideration made in his presence in reference to such execution.

Such endorsements to be dated and signed by Registering Officer.

LXVII. The Registering Officer shall affix the date and his signature to all endorsements mentioned in the last preceding Section, relating to the same document and made in his presence on the same day.

Certificate showing that document has been registered, and number and page of Book in which it has been copied.

LXVIII. After the provisions of Sections 36, 66 and 67 shall have been complied with, the Registering Officer shall endorse on the document a certificate containing the word "Registered," together with the number and page of the Book in which the document shall have been copied. Such certificate shall be signed, sealed and dated by the Registering Officer and shall then be *primâ facie* evidence that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsement referred to in the last preceding Section have occurred as therein mentioned.

Endorsements and certificate to be copied.

LXIX. The endorsements and certificate mentioned in Sections 67 and 68 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in Section 21 shall be filed in Book No. 1. The registration of the document shall thereupon be considered to be complete, and the document shall then be returned to the person who shall have presented the same for registration, or to such other person (if any) as he shall have nomi-

Document to be returned.

nated in writing in that behalf on the receipt mentioned in Section 57.

Procedure on presentation of a document in a language unknown to the Registering Officer.

LXX. When a document is presented for registration under Section 19, the translation shall be transcribed in the Register of instruments of the nature of the original, and, together with the copy referred to in Section 19, shall be filed in the Registration Office; and the endorsements and certificate respectively mentioned in Sections 67 and 68 shall be made on the original, and for the purpose of making the other copies required by any Section other than Section 65, the translation shall be treated as if it were the original.

Power to administer oaths.

Record of substance of statements.

LXXI. It shall be lawful for every Registering Officer at his discretion to administer an oath to any person examined by him under the provisions of this Act. He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he shall admit the correctness of such note, it shall be signed by the Registering Officer. .

(C.) Special Duties of Sub-Registrar.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Sub-Districts

LXXII. Every Sub-Registrar on registering a document relating to immoveable property which is not wholly situate in his own Sub-District, shall forward a copy thereof and of the endorsement and certificate thereon, and of the map or plan (if any) mentioned in Section 21, to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate; and every such Sub-Registrar shall file such copies in his Book No. 1.

Procedure on Sub-Registrar's registration of document relating to immoveable property situate in several Districts.

LXXIII. Every Sub-Registrar on registering a document relating to immoveable property situate in more Districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with such number of copies of the map or plan (if any) mentioned in Section 21 as may be necessary, to the Registrar of every District in which any part of such property is situate other than the District in which his own Sub-District is situate. The Registrar on receiving the same shall enter in his Book No. 1, the copy of the document and one of the copies of the map or plan (if any) and shall forward a copy of the document together with a copy of the map or plan (if any) to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such copies shall file the same in his Book No. 1.

(D.) Special Duties of Registrar.

Procedure on registering instruments under Section 32.

LXXIV. On registering any instrument relating to immoveable property under Section 32, the Registrar shall forward a copy of such instrument, together with a copy of the map or plan (if any) mentioned in Section 21, to each Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and he shall also forward a copy of such instrument, together with such number of copies of the map or plan (if any) mentioned in Section 21, as may be necessary, to any other Registrar in whose District any part of such property is situate; and every Sub-Registrar and Registrar, on receiving any such copy or copies, shall follow the procedure prescribed for them respectively in Section 73.

Procedure on receipt of memorandum under Section 41.

LXXV. Every memorandum received under Section 41 shall be copied in the margin of the part of the Book in which the document affected by such memorandum is registered; and for this purpose the Registrar shall send a copy of such memoran-

dum to every Sub-Registrar in his District in whose Office the said document is registered, who shall copy such memorandum in the margin of the copy of the document registered in his Office. When any such memorandum shall relate to immoveable property situate in more Districts than one, the Registrar receiving the same shall also send a copy thereof to every other Registrar within whose District any part of such property is situate, who shall on receiving such copy follow the procedure prescribed for a Registrar in the first clause of this Section. Every memorandum received by a Registrar under Section 42 shall be filed by him in his Register Book No. 5, and he shall then send a copy thereof to every Sub-Registrar subordinate to himself in whose Sub-District any part of such property is situate, and every such Sub-Registrar shall file it in his Register Book No. 5.

Procedure on receipt of memorandum under Section 42.

LXXVI. A Will and an Authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document. A Will or Authority to adopt presented for registration by any person entitled to present the same, other than the testator or donor, shall be registered if the Registrar shall be satisfied that the person so presenting the same is the person he represents himself to be, and that the Will or Authority was executed by the testator or donor, as the case may be.

Registration of Wills and Authorities to adopt.

LXXVII. On receiving for deposit a sealed cover under Section 44, the Registrar, if he shall be satisfied that the depositor is the testator or donor, as the case may be, or his duly authorized agent, shall transcribe in his Register Book No. 3 the superscription on such sealed cover, and note in the Register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover. The Registrar shall then place and retain the sealed cover in his fire-proof box.

Procedure on deposit of Wills or Authorities to adopt.

(E.) *Of the Registrar General.*

Procedure on registration in General Registry Office.

LXXVIII. On any instrument being registered in the General Registry Office under Section 31, a copy of such instrument and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose District any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in Section 73.

(F.) *Of the Controlling Powers of Registrars and Registrars General.*

Registrar to superintend and control Sub-Registrars.

LXXIX. Every Sub-Registrar shall perform the duties of his Office under the superintendence and control of the Registrar in whose District the Office of such Sub-Registrar is situate; and every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he may consider necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the Book or the Office in which any document shall have been registered.

Powers of Registrar General.
Power to frame Rules.

LXXX. The Registrar General shall exercise a general superintendence over all the Registry Offices in the Territories administered by the local Government, and shall have power from time to time to frame Rules consistent with this Act—

For providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

For declaring the languages in which and the materials on, in and with which documents presented for registration are to be written or printed, the size of such documents and the extent of blank space to be left thereon;

For declaring what territorial divisions shall be recognized under Section 21:

For regulating the amount of penalties imposed under Section 24:

For the exercise of the discretion reposed in the Registering Officer by Sections 52 and 71:

For declaring the particulars to be contained in Indexes Nos. I, II and III respectively:

For declaring the holidays that shall be observed in the Registration Offices:

And, generally, for regulating the proceedings of the Registrars and Sub Registrars under him.

The rules so framed shall be submitted to the local Government for approval, and after they shall have been approved, they shall be published in the Official Gazette, and shall then have the same force as if they were inserted in this Act.

No order to cancel registration.

LXXXI. No order shall be made to cancel the registration of any document under this Act or under Act No. XVI of 1864.

PART XII.

Of refusal to register.

Reasons for refusal to register to be recorded by Registrar or Sub-Registrar.

LXXXII. Every Registering Officer who shall refuse to register a document, except one which he has a discretion to refuse to accept for registration, or except one which he has refused to register solely because the property to which it relates is not situate within his District or Sub-District, shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "Registration refused" on the document; and on application made by any person executing or claiming under the document and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded. No Registering Officer shall accept for registration a document so endorsed unless and until an appeal shall have been presented under the provisions herein contained and decided in favour of the appellant.

Registrar may alter or revise orders of Sub-Registrar refusing registration.

LXXXIII. An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order: Provided that, whenever the Registrar shall himself as Sub-Registrar have passed the order appealed against, the appeal shall lie to the Registrar General. Any Registrar or Registrar General who shall refuse to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document and on his furnishing a stamped paper of the value of eight annas, shall without unnecessary delay give him a copy of the reasons so recorded.

Procedure where Registrar or Registrar General refuses to register or direct registration of documents falling under Section 17 or Section 18, Clauses 1, 2, 3 and 4.

LXXXIV. If a Registrar or Registrar General shall under Section 82 make an order of refusal to register any document referred to in Section 29, or if a refusal to register shall have been made under Section 15 of Act XVI of 1864, or if he shall under Section 83 on appeal make an order of refusal to direct the registration of such document, it shall be lawful for any person claiming thereunder, his representative, assign or agent authorized as aforesaid, within thirty days after the making of such order of refusal, to apply by petition to the District Court, in order to establish his right to have such document registered.

Petition.

The petition shall be in the form contained in the Schedule to to this Act or as near thereto as circumstances will permit, and shall be accompanied by copies of the reasons recorded under Sections 82 and 83,

To be verified and stamped.

and the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints, and the petition

shall, where a stamp is required by law, bear a stamp of eight annas, and may be amended by permission of the Court.

Document admissible in evidence.

The document shall be admissible in evidence on the presentation and hearing of the petition, any thing hereinbefore contained to the contrary notwithstanding.

Court to fix day for hearing petition and copy thereof to be served.

The Court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the Registering Officer and on such other persons (if any) as the Court shall think fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this Section.

Court may order document to be registered.

On the day so fixed as aforesaid, the Court may, if it shall think proper, and if the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration, order such Registrar or Registrar General to register the document, or to direct its registration in the proper manner, and he shall thereupon obey such order, and shall, so far as may be practicable, follow the procedure prescribed in Sections 66, 67 and 68, and (provided the document be duly presented for registration within thirty days after the making of such order) the registration pursuant to such order shall take effect as if the document had been registered when it was duly presented for registration to the Officer so refusing as aforesaid.

Provision for case in which the Judge is the Registering Officer.

Provided that when the Officer presiding over the District Court shall himself as Registering Officer have made any order appealed against under this Section, the petition shall within sixty days after the making of such order be presented to the High Court, and the provisions contained in the former part of

this Section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

Registering Officer not to be liable for anything *bonâ fide* done or refused in his official capacity.

LXXXV. No Registering Officer shall be liable to any suit, claim or demand by reason of any thing *bonâ fide* done or refused in his official capacity.

PART XIII.

Of the Fees for Registration, Searches and Copies.

Fees for registration, searches and copies to be fixed by local Government.

LXXXVI. Subject to the approval of the Governor-General of India in Council, the local Government shall prepare a Table of Fees payable—

For the registration of documents:

For searching the Registers:

For making or granting copies of reasons, entries or documents before, on or after registration:

And of extra or additional Fees payable—

For every registration by a Registrar General under Section 31, or by a Registrar under Section 32:

For special registration under Section 52:

For the issue of Commissions:

For filing translations:

For attending at private residences:

And for such other matters as shall to the local Government appear necessary to effect the purposes of this Act.

Table of Fees.

The local Government may from time to time, subject to the like approval, alter such Table. A Table of the Fees so payable shall be published in the Official Gazette, and a copy thereof in English and the vernacular language of the District shall be exposed to public view in every Registration Office.

Fees and penalties to be credited to Government.

LXXXVII. All fees for the registration of documents under this Act shall be payable on presentation, and all fees received under the provisions of this Act (not being fees payable

under Section 14 to Officers who are paid wholly or in part by fees), and all penalties received under Section 24, shall be remitted to the Treasury of the District or Sub-District or to such other Treasury as the local Government shall from time to time direct, and shall be credited to Government.

PART XIV.

Miscellaneous.

Nothing done by Registering Officer to be invalidated by defect in his appointment or procedure.

LXXXVIII. Nothing done in good faith pursuant to the said Act No. XVI of 1864 or this Act by any Registering Officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Registration of instruments executed by Government Officers or certain public functionaries.

LXXXIX. Notwithstanding anything herein contained, it shall not be necessary for any Officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any Registration Office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in Section 66; but when any instrument is so executed, the Registering Officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary of Government, or to such Officer of Government, Administrator General, Official Trustee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

Penalty for incorrectly copying, endorsing, translating or registering documents with intent to injure.

XC. Every Registering Officer appointed under this Act and every person employed in his Office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document pre-

sented or deposited under the provisions of this Act, shall endorse, copy, translate or register such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury as defined in the Indian Penal Code to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for making false statements before Registering Officer.

XCI. Whoever shall intentionally make any false statement, whether on oath or not, and whether it shall have been recorded or not, before any Officer acting in execution of this Act, in any proceeding or enquiry under this Act, shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Penalty for delivering false copy or translation.

XCII. Whoever shall intentionally deliver to a Registering Officer in any proceeding under Section 19 or 21 a false copy or translation of a document, or a false copy of a map or plan, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for false personation.

XCIII. Whoever falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or Commission to be issued, or does any other act in any proceeding under this Act, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for abetment of offences under this Act.

XCIV. Whoever abets within the meaning of the Indian Penal Code anything made punishable by this Act shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Registering Officer may institute prosecutions.

XCV. A prosecution for any offence under this Act coming to the knowledge of a Registering Officer in his official capacity may be instituted by the Registrar General, the Branch Registrar

General, the Registrar or (with the sanction of the Registrar to whom he is subordinate) the Sub-Registrar in whose Territories, District or Sub-District, as the case may be, the offence has been committed. All prosecutions under this Act shall be instituted before a person exercising the powers of a Magistrate or subordinate Magistrate of the first Class; and all fines imposed under this Act may be recovered in the manner prescribed in Section 61 of the Code of Criminal Procedure.

Registering Officers to be deemed Public Servants.

XCVI. Every Registering Officer appointed under this Act shall be deemed a Public Servant within the meaning of the Indian Penal Code, and every person shall be legally bound to furnish information to such Registering Officer when required by him to do so. And in Section 228 of the Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

References to Act No. XVI of 1864 to be read as if made to this Act.

XCVII. All references to the said Act No. XVI of 1864 in Acts passed previous to the date of this Act coming into operation shall be read as if made to this Act.

Commencement of Act where Act No. XVI of 1864 is in force.

XCVIII. This Act shall come into operation on the first day of May 1866 wherever Act No. XVI of 1864 is now in force. This Act shall come into operation on the same day in the Territories under the Bombay Government known as the Panch Maháls and attached to the Collectorate of Kaira, and on the first day of July 1866 in the Province of Sind; and Act No. XVI of 1864 shall not be deemed to have come into operation in such Territories or Province, any notification of the local Government to the contrary notwithstanding. This Act may be extended to any other part of British India by an order of the local Government, to be notified in the Official Gazette; and such order may, at any time before such extension shall come into operation, be altered or cancelled.

Power to extend Act to other Territories.

XCIX. From the date on which this Act shall be extended as hereinbefore provided to any part of British India in which the Acts hereinbefore mentioned are not in force, all Rules and Regulations relating to the registration of assurances in force in such part of British India shall cease to have effect, except as regards documents duly registered under any of such Rules or Regulations.

Repeal of Rules relating to registration in certain Territories.

C. Anything contained in this Act to the contrary notwithstanding, every instrument of the kinds mentioned in Sections 17 and 18, which shall have been executed in any such part of British India before the date on which this Act shall come into operation therein, shall be accepted for registration if it be duly presented for registration within twelve months from such date.

Time for registering instruments executed in such Territories before extension of this Act.

CI. For three months after the date on which this Act shall come into operation in any part of India in which Act No. XVI of 1864 has not come into operation, a power of attorney not duly executed according to the provisions of Section 35, anything therein contained to the contrary notwithstanding, shall be deemed to have been duly executed under the provisions of the same Section, if the Registering Officer shall be satisfied that it has been executed in good faith, and if a power of attorney attested under the provisions of this Act cannot be obtained within the period during which the document sought to be registered can, under such provisions, be accepted for registration.

Recognition in Territories in which Act XVI of 1864 is not in force, for three months of powers of attorney not duly executed.

CII. All or any of the Register Books and Indexes kept under this Act or the said Act No. XVI of 1864, any Act, Rule or Regulation repealed by either of them, may be transferred to the custody of the Registrar of the District in which they are now preserved, or to such other Officer in that or any other District as the local Government shall from time to time direct, and all Rules contained in or made pursuant to this Act shall, so far as they may be applicable, apply to the Books and Indexes so transferred as aforesaid.

Registers kept under former enactments to be transferred to Registrar of the District.

SCHEDULE.

Form of Petition under Section 84.

Stamp eight annas.

To the Judge of the District Court of

The day of 186 .

The petition of A. B. of

Sheweth:—

1. That by an instrument dated the day of and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner absolutely.

2. That such instrument was executed by the said C. D. on the day of 186 .

3. That the property to which such instrument relates is situate in the Sub-District of the Sub-Registrar of and in the District of

4. That on the day of your petitioner presented the said instrument for registration under "The Indian Registration Act, 1866," in the Office of the said Sub-Registrar, and on such presentation the said C. D. appeared personally before the said Sub-Registrar, and admitted the execution of the said instrument [*or* and falsely denied the execution of the said instrument].

5. That the said C. D. is personally known to the said Sub-Registrar [*or* adduced evidence that he was the person he represented himself to be *or* That your petitioner adduced evidence that the said C. D. was the person he represented himself to be].

6. That the said Sub-Registrar thereupon made an order of refusal, dated the day of 186 , to register the said instrument, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

7. That your petitioner on the day of appealed to the Registrar of , against such order.

8. That the said Registrar thereupon made an order of refusal, dated the day of to direct the registration of the said instrument, and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

9. That the reasons referred to in paragraphs 6 and 8 are, as your petitioner submits, insufficient, [*or* That your petitioner has complied with the

requirements of the said Acts so far as it has been possible for him to do so].

Your petitioner therefore prays that your Honour will order the said Sub-Registrar to register the said instrument.

A. B.

Form of verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

NATIVE CONVERTS' MARRIAGE DISSOLUTION ACT.

ACT No. XXI OF 1866.

(Received the assent of the Governor-General on the 2nd April 1866.)

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

Recites expediency of legalizing, &c., the dissolution of marriages of Native Converts, &c., deserted or repudiated, &c., by their wives or husbands.

1—3. Names the Act; (2) to take effect from 1st May 1866; and (3) interprets the words Native Husband, Native Wife, Native Law, Month and Year, High Court, and words of Number.

4—18. Provides that, if a Native Husband; and (5) if a Native Wife, change their religion for Christianity, and in consequence for six months desert the other, he or she may sue for conjugal society, such suit (6) to be instituted where, &c., respondent resides; and (7) be commenced by Petition in given Form verified, a copy of which (8) shall be served on respondent, &c.; and (9) citation shall thereupon issue; and (10) be served, &c.; and (11) obliges respondent to obey, &c., under penalty; and (12) defines the points to be proved at the hearing on the part of the plaintiff; after which proof (13) the respondent is to be interrogated on specified questions under Commission or by the Judge, either (14) in Court or in his private room; and (15 and 16) provides for the case in which respondent is a female, and (17) in which respondent is a male, and refuses to cohabit; and (18) provides for the case in which either of the parties was under the age of puberty at the time of the marriage, and the marriage has not been consummated.

19. Legalizes any marriage after decree for dissolution, and the issue thereof legitimate, any Native Law to the contrary notwithstanding.

20. Provides for the issuing of Commissions under this Act.

21. Makes cohabitation as man and wife presumptive evidence of marriage and refusal, &c., to co-habit proof of desertion, &c., and of its being in consequence of change of religion.

22. Code of Civil Procedure as to summoning, &c., of witnesses to apply to suits under this Act.

23—26. Directs that the suit be dismissed if either party be under specified age; but (24) such suit may be revived within 12 months, &c., and (25) provides for dismissal of suit, if the desertion, &c., is found to have been partly in consequence of plaintiff's cruelty or adultery; and (26) provides for the case of male petitioner having two or more wives, and directs dismissal of such if he is living with any one of them, &c.

27. Provides that a dissolution of marriage under this Act shall not affect the legal status of legitimate children antecedently born.

28. Provides for alimony for the wife after suit commenced, and funds being supplied to her to prosecute or defend the suit.

29—33. Directs that no appeal shall lie against any order, &c., under this Act. Further provides that, if respondent alleges by way of defence that the marriage has been dissolved by the conversion of the petitioner, case may be stated, which (30) shall contain what statement for High Court, and (31) such case shall be decided by three Judges of High Court of Presidency Towns, &c.; and (32) Court may refer case back, &c., or (33) decide the questions raised, and deliver judgment, &c.

34. Saves marriages of Native Roman Catholic Converts from specified operation of this Act

35. Extends this Act to all Her Majesty's Indian territories, except the Straits' Settlements, to which it may be extended by Governor-General in Council, &c.

Schedule 1.—Form of Petition. 2.—Form of Citation. 3.—Of Citation in case of respondent being exempt from appearance in Court.

Preamble.

WHEREAS it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated, on religious grounds, by their wives or husbands; It is enacted as follows:—

Short title.

I. This Act may be cited as "The Native Converts' Marriage Dissolution Act, 1866."

Commencement of Act.

II. This Act shall commence and take effect on and from the first day of May 1866.

III. In this Act—

"Native Husband" shall mean a married man domiciled in British India, who shall have completed the age of sixteen years, and shall not be a Christian, a Muhammadan nor a Jew:

Interpretation of terms. "Native Husband."

"Native Wife" shall mean a married woman domiciled in British India, who shall have completed the age of thirteen years, and shall not be a Christian, a Muhammadan nor a Jewess:

"Native Wife."

"Native Law" shall mean any law, or custom having the force of law, of any persons domiciled in British India other than Christians, Muhammadans and Jews.

"Native Law."

"Month" and "year" shall respectively mean month and year according to the British calendar:

"Month" and "year."

"High Court" shall mean the highest Civil Court of appeal in any place to which this Act extends:

"High Court."

And, unless there be something repugnant in the subject or context, words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number.

IV. If a Native Husband change his religion for Christianity, and if in consequence of such change his Native Wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

Convert deserted by his wife on religious grounds may sue for conjugal society.

V. If a Native Wife change her religion for Christianity, and if in consequence of such change her Native Husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Convert deserted by her husband on religious grounds may sue for conjugal society.

VI. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original Civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court: otherwise it shall be commenced in the

Court in which suit shall be brought.

principal Civil Court of original jurisdiction of the District in which the defendant shall reside at the commencement of the suit.

Suit to be commenced by verified petition.

VII. The suit shall be commenced by a petition in the form in the first Schedule to this Act, or as near thereto as the circumstances of the case will allow. The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition shall bear a stamp of two rupees, and may be amended by permission of the Court.

On service of petition, citation issued to respondent.

VIII. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

Form of citation.

IX. In ordinary cases the citation shall be in the form in the second Schedule to this Act, or as near thereto as the circumstances of the case will allow. But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third Schedule to this Act, or as near thereto as the circumstances of the case will allow.

Service of citation.

X. A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Procedure where respondent does not obey citation.

XI. If the respondent shall not obey such citation, and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under Section 174 of the Indian Penal Code.

Points to be proved on appearance of petitioner.

XII. On the day fixed in the citation the petitioner shall appear in Court, and the following points shall be proved:—

(1.) The identity of the parties:

(2.) The marriage between the petitioner and the respondent:

(3.) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years:

(4.) The desertion or repudiation of the petitioner by the respondent:

(5.) That such desertion or repudiation was in consequence of the petitioner's change of religion:

(6.) And that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

First interrogation of respondent.

XIII. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and if so, what is the ground of such refusal. In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge, but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall, in his discretion, excuse the respondent from such appearance, the interrogations shall be made by Commissioners acting under such Commission as hereinafter mentioned.

Interrogations by Judge may be public or private.

XIV. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room. If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

Procedure when female respondent refuses to cohabit with petitioner.

XV. If the respondent be a female, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's

change of religion, shall make an order adjourning the case for a year, and directing that, in the interim, the parties shall at such place and time as he shall deem convenient, have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

Adjournment for a year.

Interview.

XVI. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to; and if the points mentioned in the twelfth and this Section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner, and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

Procedure on expiration of adjournment.

Interrogation of respondent.

Decree.

XVII. If the respondent be a male, and in answer to the interrogatories of the Judge or Commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answer and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year. At the expiration of such adjournment, the petitioner shall again appear in Court; and if the respondent on being interrogated by the Judge or Commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge shall thereupon pass such a decree as last aforesaid: Provided that if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall,

Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion.

Proviso.

mutatis mutandis, be the same as in the case of a female respondent.

Decree if respondent so refuse in the case of an unconsummated marriage, either party being *impubes* at time of marriage.

XVIII. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated; and if, in answer to the interrogatories made pursuant to the thirteenth Section of this Act, the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid.

Liberty to parties to marry again.

XIX. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such re-marriage shall be legitimate, any Native law to the contrary notwithstanding. Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

Judge may order Commission to issue for examination of exempted person.

XX. In suits instituted under this Act, the Judge shall order a Commission to issue to such persons, whether males or females or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid. The provisions of the Code of Civil Procedure shall, so far as practicable, apply to Commissions issued under this Section.

Proof of the marriage and the desertion or repudiation of petitioner in consequence of conversion.

XXI. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be suf-

ficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Provisions of Civil Procedure Code as to witnesses to apply in suits under this Act.

XXII. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses, shall apply in suits instituted under this Act.

Dismissal of suit if either party is under the age required by the Act, or if the parties are cohabiting, or the respondent is willing to cohabit.

XXIII. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or if the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Revival of suit after such dismissal.

XXIV. If at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding Section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall re-commence at the stage at which it had arrived immediately before the passing of such decree; and, after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in the sixteenth Section of this Act.

Petitioner's cruelty or adultery to bar the suit.

XXV. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. A suit dismissed under this Section shall not be revived.

Male petitioner's cohabitation with one of several wives to bar the suit.

XXVI. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal. The provisions as to revival contained in the twenty-fourth Section of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this Section.

Dissolution of marriage not to affect status or rights of children.

XXVII. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children, or of any right or interest which they would have had, according to the Native law applicable to them, by way of maintenance, inheritance, or otherwise, in case the marriage had not been so dissolved as aforesaid.

Power to Court to award alimony.

XXVIII. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit. If the suit be brought by a husband against a wife, the Court may by the decree order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties. Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

No appeal under this Act; but the Judge may state case raising question whether conversion has dissolved marriage.

XXIX. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between

the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a Native husband or a Native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall, either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court.

Case to state necessary facts and documents and suit to be stayed.

XXX. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

Case to be decided by three Judges.

XXXI. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the Presidency Towns; and the petitioner and respondent may appear and be heard in the High Court in person or by Advocate or Vakeel.

High Court may refer case to Judge for additions or alterations.

XXXII. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

High Court may decide question raised, and Judge shall dispose of case accordingly.

XXXIII. It shall be lawful for the High Court upon the hearing of any such case to decide the questions raised thereby, and to deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

Saving of Roman Catholic marriages.

XXXIV. Nothing contained in this Act or in Acts Nos. XXV of 1864 and V of 1865 shall be taken to render invalid any marriage of Native

convert to Roman Catholicism if celebrated in accordance with the rules, rites, ceremonies and customs of the Roman Catholic Church; and no Clergyman of such Church shall be liable to any suit or penalty under the provisions of either of the two Acts last hereinbefore mentioned, for solemnizing any such marriage.

Extent of Act.

XXXV. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the Statute 21 & 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca. But it may be extended, with the consent of the Governor-General of India in Council, by order of the Governor of such Settlement to all or any part of the territory subject to his Government; and he may, with such consent as aforesaid, determine the Court in which suits against residents in such territory shall be commenced under the provisions of this Act. In case of such extension, if the Indian Penal Code shall not then apply to the said Settlement, the respondent's personal appearance pursuant to this Act may be enforced by such procedure as the said Governor, with such consent as aforesaid, shall provide in that behalf.

THE FIRST SCHEDULE.

Form of Petition.

Stamp Rs. two.

To the Judge of the Civil Court of

The day of 18 .

The petition of A. B. of

Sheweth:—

1. That your petitioner was born on or about the day of 18 .

2. That your petitioner was on the day of in the year 18 lawfully married to C. D. at

3. That the said C. D. is now of the age of years or thereabouts.

4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18

5. That previous to the day of 18 your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of

6. That on the day of 18 [*at least six months prior to the date of the petition*], the said C. D. deserted your petitioner, and has not since resumed cohabitation with him.

7. That such desertion was in consequence of your petitioner's said change of religion.

8. That there is no collusion nor connivance between your petitioner and the said C. D.

Your petitioner therefore prays that your Honour will order the said C. D. to live and cohabit with your petitioner, or declare that your petitioner's marriage is dissolved.

A. B.

Form of verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

Form of Citation in ordinary cases.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. has filed his [*or* her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to live and cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved: Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of at on the day of 18

(Signed) G. H.

THE THIRD SCHEDULE.

Form of Citation in case of respondent exempt from appearance in Court.

To C. D. of

Whereas A. B. of claiming to have been lawfully married to you the said C. D. has filed his [*or* her] petition against you in the Civil Court of alleging that you the said C. D. have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved. Now this is to command you that, at the expiration of days [*at least one month*] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by Commissioners duly authorised in that behalf under a Commission issued by this Court, in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under Section 174 of the Indian Penal Code.

Dated the day of 18

(Signed) E. F.

Judge of the Civil Court of

Indorsement to be made after service.

This citation was duly served by G. H. on the within named C. D. of at on the day of 186

(Signed) G. H.

INDIAN MARRIAGE ACT, 1865.

ACT No. XXII OF 1866.

(Received the assent of the Governor-General on the 2nd April 1866.)

An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad.

1. Extends Indian Marriage Act to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad.

Preamble.

WHEREAS it is expedient to extend the provisions of the Indian Marriage Act, 1865, to the Christian British subjects of Her Majesty within

the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad; It is enacted as follows:—

Indian Marriage Act, 1865, to extend to Christian British subjects in the Hyderabad Assigned Districts, &c.

I. From and after the passing of this Act, the Indian Marriage Act, 1865, shall, so far only as regards Christian British subjects of Her Majesty, extend to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry and Aurungabad.

HIGH COURT LETTERS PATENT, BOMBAY.

ACT No. XXIII OF 1866.

(Received the assent of the Governor-General on the 17th May 1866.)

An Act to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay.

Recites two clerical errors in the Letters Patent of the High Court of Bombay.

1. Corrects the recited errors.

Preamble.

WHEREAS the twenty-second Section of the Letters Patent for the High Court of Judicature for the Presidency of Bombay, dated the 28th December 1865, is as follows:—"And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original Criminal jurisdiction within the local limits of its ordinary original Civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at *Fort William in Bengal* shall have Criminal jurisdiction at the date of the publication of these presents;" And whereas it is expedient to correct the two clerical errors in such Section which are hereinbefore indicated by italics; It is hereby enacted as follows:—

Clause substituted for Section 22 of revised Letters Patent of High Court of Bombay.

I. In lieu of the said recited Section, the following shall be substituted:—

"And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original Criminal jurisdiction within the local limits of its ordinary original Civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have Criminal jurisdiction at the date of the publication of these presents."

HIGH COURT (N. W. PROVINCES) ACT.

ACT No. XXIV OF 1866.

(Received the assent of the Governor-General on the 11th July 1866.)

An Act to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William.

Recites expediency of amending the procedure of the High Court of N. W. Provinces in its Original, Criminal, and Civil Intestate and Testamentary Jurisdiction.

1. Interprets the words High Court, Lieutenant-Governor, Magistrate, Registrar, and words of Number and Gender.

2. Directs Magistrates to send in charge with the other papers on commitment of European British subject for trial in High Court; which Court (3) or its Officer shall consider the charge, and amend it, &c., and copy of charge, also (4) of depositions to be furnished to prisoner; who (5) shall be tried on such charge; unless (6) the High Court shall consider the charge clearly unsustainable, in which case an entry to that effect shall be recorded, &c.

7. Empowers the Lieutenant-Governor to direct at what places the High Court shall hold its sittings, &c.

8.—9. High Court may direct at what place European British subject shall be tried, &c.; and shall, (9) if no special order is made, be tried at usual place of sitting of Court, &c.

10.—13. All trials of European British subjects to be by Jury; and (11) directs in what way Jury shall be summoned; (12) a majority of which shall consist of Europeans or Americans, if the accused so require; and (13) to consist of twelve persons; a majority of not less than nine, and the concurrence of the Judge shall be necessary for a verdict of guilty, in default of which majority, the prisoner shall be acquitted.

14.—15. Dispenses with confirmation by Sudder Court of sentences of death, and with statements of grounds, if, for offence punishable with death, that sentence is not passed; and (15) dispenses with the necessity of recording sentence, &c., in a particular form.

16.—17. Authorizes the Judge to reserve any question of law or of the admissibility of evidence for the High Court; and directs the subsequent proceedings, if no question is reserved, &c.; and (17) directs that Code of Criminal Procedure shall generally apply, save as otherwise provided in this Act.

18. Suspends as respects judgments and orders of the High Court Act VIII, 1859, Sections 184, 185, 186 and 359, and empowers High Court, &c., to record their judgments and orders according to Rules to be made by the High Court.

19. Empowers High Court by Rule to fix time for appealing from judgments, &c., of High Court Judges, and time for application for review.

20. Empowers the Court to order execution of decree before taxation of costs, and execution for costs afterwards.

21. Empowers the Court to allow acts to be done by an Attorney which, by Act VIII, 1859, are directed to be done by a Pleader, &c.

22. Directs that the procedure in the Original Testamentary and Intestate Jurisdiction shall be regulated, &c., by the Rules in the Indian Succession Act, 1865.

23. Names the Act.

Preamble.

WHEREAS it is expedient to amend the procedure of the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in the exercise of its Original Criminal, and its Civil, Intestate and Testamentary Jurisdictions; It is hereby enacted as follows:—

Interpretation Clause.

I. In this Act, unless there be something repugnant in the subject or the context—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature for the North-Western Provinces of the Presidency of Fort William:

"Lieutenant-Governor."

"Lieutenant-Governor" denotes the Lieutenant-Governor for the time being of the said Provinces:

"Magistrate."

"Magistrate" denotes any person exercising any of the powers of a Magistrate under the Code of Criminal Procedure:

"Registrar" includes, besides such Officer, any Officer specially appointed by the Lieutenant-Governor to discharge the functions given by this Act to the Registrar:

"Registrar."

Words in the singular include the plural, and words denoting the masculine gender include females.

Number.
Gender.

II. Any Justice of the Peace or Magistrate within or without the said Provinces, before whom any European British subject shall be brought for an offence committed within the said Provinces, or for an offence which under or by virtue of any law or order made or issued by the Governor-General of India in Council shall have been made triable by the High Court, and who shall commit or hold to bail such person for trial shall, together with the record of the preliminary enquiry and all recognizances and other documents, and any weapon or article of property connected with the case, and translations into English of any writings not in that language, deliver to the Registrar of the High Court a written instrument of charge signed by him stating for what offence such person is so committed or held to bail.

Charge to be delivered with record of preliminary enquiry.

III. The High Court, or any Officer specially authorized by the High Court in this behalf, shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the High Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

High Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

IV. The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

Accused to have copies of examinations.

V. Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the High Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

Effect of charge.

VI. When any such charge shall have been recorded in the High Court as aforesaid, and shall at any time before the commencement of the trial of the person charged appear to the High Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged, unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

High Court may order an unsustainable charge not to be proceeded with.

Effect of such order.

VII. The High Court shall ordinarily hold its sittings at such place as the Lieutenant-Governor shall direct in that behalf: but the High Court or any Division of the High Court may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the said Provinces as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

Places of holding sittings.

VIII. It shall be lawful for the High Court to direct that all European British subjects committed or bailed for trial within certain specified districts, or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place

High Court may order European British subjects committed in certain districts in certain seasons of the year, to be tried at a particular place and confined in a particular jail.

named; and also to order that such European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail being one of the jails appointed by the Government for the reception of such prisoners.

Procedure on direction of High Court as to trial.

IX. If the trial shall be directed to take place at the usual place of sitting of the Court, or if no general direction shall have been given under the last preceding Section, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the High Court shall direct that the person charged be tried elsewhere than in its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial in the place directed, or (as the case may be) shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which such person is directed to be tried, and the Officer in charge of such Criminal jail shall keep such person in safe custody until discharged in due course of law. The High Court may direct that the person charged shall be admitted to bail, or that the bail required by the Justice of the Peace or Magistrate shall be reduced.

Trials under Section 2 to be by Jury.

X. All trials under Section 2 of this Act shall be by Jury.

Summoning of Jurors to serve on trials.

XI. Whenever the High Court shall have given notice of its intention to hold sittings at any place for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections 336 to 340, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful after communication with the Commanding Officer, cause to be summoned such number of Commissioned and Non-Commissioned Officers in the Military Service, resident within ten miles of its place of sitting, as the Court shall consider to be necessary to make up

Military men not exempt.

the Juries required for the trial of European British subjects charged with offences before the High Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure. But no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent military duty, or for any other special military reason. The Juries for the trial of European British subjects as aforesaid, shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or if no such Officer have been summoned, then solely from the persons summoned under the same Sections.

Jury for trial of European British subjects.

XII. If any European British subject charged as aforesaid, shall so require before the Jury shall be empanelled, the majority of the Jurors shall consist of Europeans or Americans, or both Europeans and Americans.

Number of Jury requisite for verdict of guilty.

XIII. On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity or a majority of not less than nine, with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity or of such majority and concurrence, the prisoner shall be acquitted.

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by High Court.

XIV. So much of Section 380 of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the same Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by

the High Court passed in the exercise of its original Criminal jurisdiction.

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of High Court.

XV. So much of the 26th Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the High Court, acting in the exercise of its original Criminal jurisdiction, but the High Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

Power to reserve for High Court any question of law or evidence.

XVI. When any person has been convicted of an offence before a Judge of the High Court, acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the High Court any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the district or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in Section 385 of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision of the High Court be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

Procedure where no such question is reserved.

XVII. Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the High Court, acting in the exercise of its original Criminal jurisdiction, and to trials before such Court, and to sentences by such Court, and to the carrying into execution of such sentences.

Save as aforesaid, Code of Criminal Procedure to apply to Juries, trials, sentences and executions under this Act.

XVIII. The operation of the following Sections of Act No. VIII of 1859, namely, Sections 184, 185, 186 and 359, relating to the manner in which the judgments of the Courts of Civil Judicature are to be recorded, and so much of the same Act as extends the provisions of the same Sections to the orders of the Courts of Civil Judicature not being judgments or decrees, is hereby suspended in the High Court; and the High Court, and every Division Court and Judge thereof, shall record their and his judgments and the orders passed by them and him respectively in such manner as the High Court shall by any general rule or rules from time to time direct.

Parts of Act VIII of 1859 suspended in High Court.

High Court to record its judgments and orders as it shall by rule direct.

XIX. The High Court may by its own rules fix the time within which appeals from or applications for review of any judgments, orders or decrees made by any Division Court, or by any Judge or Judges of the said High Court in the exercise of its original jurisdiction, shall be preferred.

Court may fix time for appealing from judgments, &c., of its own Judges or Division Courts.

XX. Whenever it shall appear necessary to a Judge of the High Court that a decree made in the exercise of the original Civil jurisdiction of the said Court ought to be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Judge may order that the decree shall be executed forthwith except as to so much thereof as relates to the costs, and, as to so much thereof as relates to the costs,

Execution may issue in certain cases before the amount due for costs has been ascertained, and execution for costs may issue subsequently when their amount is ascertained.

that the same may be executed as soon as the amount of the costs shall be ascertained by taxation. The High Court may appoint the Registrar to be Taxing Officer.

Court in the exercise of its original Civil jurisdiction may, in certain cases, authorize acts required by the Code of Civil Procedure to be done by a Pleader, to be done by an Attorney.

Proviso.

XXI. Whenever anything is directed by the said Act No. VIII of 1859 to be done by or through a Pleader, the High Court or any Judge thereof in the exercise of its original Civil jurisdiction, may authorize such act to be done by or through an Attorney-at-law of the High Court: Provided that no Attorney shall be authorized under the provisions of this Section to plead in the High Court or in any Division Court for any other person.

Testamentary and Intestate Procedure.

XXII. The procedure in all cases which shall be brought before the High Court in the exercise of its original Testamentary and Intestate jurisdiction, shall be regulated as far as the circumstances of the case will admit by the rules of procedure laid down in the Indian Succession Act, 1865, whether the Act itself applies to the case or not, and in cases to which such rules are inapplicable the procedure shall be regulated by the Code of Civil Procedure.

Short Title.

XXIII. This Act shall be called "The High Court (North-Western Provinces) Act, 1866."

OLD AND UNCLAIMED DEPOSITS IN HIGH COURT, AND OF INTESTATES' ESTATES.

ACT No. XXV OF 1866.

(Received the assent of the Governor-General on the 11th July 1866.)

An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator-General of Bengal.

1. Directs that all securities and sums of money which have been in deposit in the Supreme Court and High Court for twenty years, &c., without any claim thereto being allowed, shall be transferred to the Government of India.

2. Directs as to proceeds of estates in Supreme Court of Straits' Settlement, and in charge of Administrator-General of Bengal, which have been fifteen years in official charge without claim being allowed, shall be transferred to Government; unless (3) suit is pending in respect thereof; and (4) provides for payment to parties entitled, or establishment of claim thereto, at any subsequent period.

Preamble.

WHEREAS it is expedient that certain securities and sums of money deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, in the course of suits in the said Courts or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the general purposes of Government: And whereas it is also expedient that the net proceeds of all estates administered under the orders of the said Supreme Court of the Straits' Settlement, or in the official charge of the Administrator-General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, should be transferred and paid to the Government of India for the purposes aforesaid; It is hereby enacted as follows:—

Monies deposited in High Courts and Supreme Court Straits' Settlement, and unclaimed for twenty years, to be transferred to Government.

I. All securities and sums of money deposited in the said High Courts or Supreme Court of the Straits' Settlement, or any of them, in the course of suits in any of the said Courts or of the late Supreme Courts of Calcutta, Madras and Bombay, and now or hereafter appearing to have been in such deposit for a period of twenty years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and

paid to the Government of India for the general purposes of Government.

Proceeds of estates administered under order of Supreme Court, Straits' Settlement, or in charge of Administrator-General of Bengal, and unclaimed for for fifteen years, to be transferred to Government.

II. The net proceeds of all estates administered under the orders of the said Supreme Court of the Straits' Settlement, or in the official charge of the Administrator-General of Bengal, and now or hereafter appearing from the official books and accounts to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed during that period, shall be transferred and paid to the Government of India for the General purposes of Government.

Transfer not to be made pending suits.

III. Nothing in this Act shall authorize any transfer or payment of any such securities, sums of money or proceeds as aforesaid, pending any suit already instituted or which shall hereafter be instituted in respect thereof.

Re-payment on subsequent establishment of claim.

IV. If any claim shall hereafter be made to any part of the securities, monies or proceeds which shall be transferred and paid to the Government of India under the provisions of this Act, and if such claim shall, in the case of securities and monies transferred and paid under the first Section of this Act, be established to the satisfaction of the High Court or Supreme Court, as the case may be, from which the transfer shall have been made, and, in the case of proceeds transferred and paid under the second Section of this Act by order of the Supreme Court of the Straits' Settlement, be established to the satisfaction of the same Court, and, in the case of proceeds transferred and paid under the same Section by the Administrator-General of Bengal for the time being, be established to the satisfaction of the said Administrator-General and the Accountant-General to the Government of Bengal respectively, the Government of India shall pay to the claimant the amount of the principal so transferred and paid as aforesaid, or so much thereof as shall

appear to be due to the claimant. If any such last-mentioned claim shall not be established to the satisfaction of the said Administrator-General and Accountant-General, the claimant may apply by petition to the High Court of Judicature at Fort William, on its original side, against the Government of India and the Administrator-General of Bengal for the time being, and after taking evidence, either orally or on affidavit in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the principal sum as justice shall require, and such order shall be binding on all parties to the suit.

OUDH SETTLEMENT ACT, 1866.

ACT No. XXVI OF 1866.

(*Received the assent of the Governor-General on the* 12*th October* 1866.)

An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that Province.

Recites the expediency of legalizing the rules made by the Chief Commissioner of Oudh for the determination of specified land claims.

1—2. Legalizes the rules published in the *Gazette of India* for September 1st, 1866; and (2) annuls all existing rules inconsistent with them.

3. Names the Act as above. *Schedule.* Rules regarding sub-settlements and other subordinate rights of property in Oudh.

Preamble.

WHEREAS rules have been made by the Chief Commissioner of Oudh for the better determination of certain claims by persons possessed of subordinate rights of property in the territories subject to his administration; and whereas it is expedient that such rules should have the force of law; It is hereby enacted as follows:—

Rules as to sub-settlements contained in the Schedule to have the force of law.

I. The rules for determining the conditions under which persons possessed of subordinate rights of property in taluqas in the territories subject to the administration of the Chief Commissioner of Oudh shall be entitled to obtain a sub-settlement

of lands, villages or sub-divisions thereof, which they held under Taluqdars on or before the thirteenth day of February 1856, and for determining the amounts payable to the Taluqdar by such subordinate proprietors, which rules were made by the said Chief Commissioner, sanctioned by the Governor-General of India in Council, and published in the *Gazette of India* for September 1st, 1866, and which are re-published in the Schedule to this Act, are hereby declared to have the force of law.

Repeal of inconsistent rules.

II. So much of any Act, Regulation or Rule having the force of law, which is in operation in the said territories as may be inconsistent with or repugnant to the rules hereby legalized, shall cease to have effect in such territories.

Short title.

III. This Act may be called "The Oudh Sub-Settlement Act, 1866."

SCHEDULE.

Rules regarding sub-settlements and other subordinate rights of property in Oudh

1. The extension of the term of limitation for the hearing of claims to under-proprietary rights in land, makes of itself no alteration in the principles hitherto observed in the recognition of a right to sub-settlement.

2. When no rights are proved to have been exercised or enjoyed by an under-proprietor during the period of limitation, beyond the possession of certain lands as *seer* or *nankar*, no sub-settlement can be made; but the claimant will be entitled, in accordance with the rules contained in the circular orders which have hitherto been in force in Oudh upon this subject, to the recognition of a proprietary right in such lands. To entitle a claimant to obtain a sub-settlement, he must show that he possesses an under-proprietary right in the lands of which the sub-settlement is claimed, and that such right has been kept alive, over the whole area claimed, within the period of limitation.

He must also show that he, either by himself or by some other person or persons from whom he has inherited, has, by virtue of his under-proprietary right, and not merely through privilege granted on account of service, or by favor of the Talookdar, held such lands under contract *(pucka)*, with some degree of continuousness, since the village came into the talooka.

3. The words "some degree of continuousness" will be interpreted as follows :—

If the village was included in the talooka before the 13th February 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province. If the village was included in the talooka after the 13th February 1836, but before the 13th February 1844, the least must have been held for not less than one year more than half the period between the time in which the village was so included and the annexion of the province. Further, the lease must, in all cases, have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the talooka after the 13th February 1844, in which case the lease must have been held for not less than one year more than half of the period between the time in which the village was so included and the annexation of the province. Provided that, if, for any reason, the Talookdar was, for any period, dispossessed of the village, and the under-proprietor was dispossessed from the lease during the same period, the term of such dispossession shall not be reckoned against the under-proprietor. Provided also, that nothing in this rule will apply to any village which was included for the first time in the talooka after the 13th February 1844, and in which the under-proprietor has held no lease for any period under the Taiookdar.

4 If an under-proprietor, who is entitled to a sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold, in perpetuity, the lease of the lands to the sub-settlement of which he is entitled, at a uniform *(istimraree)* rate of payment, and that such agreement has been acted on within the period of limitation, he will

not be liable to payment at an increased rate during the currency of the present or revised settlement. If in consequence of any future re-adjustment of the Government demand, the former proportion between the respective shares of the profits derived from the land by the under-proprietor and the Talookdar should be altered, the amount payable by the under-proprietor to the Talookdar will be liable to re adjustment, so that the proportion between their respective shares of the profits may remain unaltered.

5. If an under-proprietor, entitled to sub-settlement, can show by documentary evidence that he had entered into an agreement with the Talookdar that he should hold the lease of the lands to the sub-settlement of which he is entitled, on payment of the Government demand imposed before the annexation of the province on such lands, with the addition only of certain dues to the Talookdar, or other charges, and such agreement has been acted upon within the period of limitation, such under-proprietor will in future be liable only for the payment to the Talookdar of the Government demand for the time being, with the addition of ten per cent. in lieu of Talookdaree dues and other charges.

6. If an under-proprietor, entitled to sub-settlement, has held the lease of the lands to the sub-settlement of which he is entitled, under an agreement that he shall pay to the Talookdar a certain share or proportion of the profits or produce of such lands, and such agreement has been acted upon within the term of limitation, the under-proprietor will in future continue to be liable for the payment to the Talookdar of such share or proportion.

7. In all cases in which an under proprietor is entitled, to a sub-settlement other than those described in Rules 4 to 6, the amount payable by the under-proprietor to the Talookdar will be determined according to the following principles :—

1*st*.—The payments made by the under-proprietor to the Talookdar before annexation, will form the standard by which the present payments are to be regulated.

2*nd*.—In no case can the amount payable by the under-proprietor to the Talookdar, during the currency of the settle-

ment, exceed the gross rental of the village, less ten per cent. in *seer* or *nankar* land.

3rd.—In no case can the amount payable during the currency of the settlement by the under-proprietor to the Talookdar, be less than the amount of the revised Government demand, with the addition of ten per cent.

4th.—If the gross rental of the village before annexation and at the present time be approximately the same, the under-proprietor will pay to the Talookdar the same amount which he paid before annexation.

5th.—If the present gross rental of the village exceed or fall short of the former gross rental, the payment of the under-proprietor to the Talookdar will be adjusted according to the following rule, *viz.* as the former gross rental is to the payment of the under-proprietor, so is the present gross rental to the present payment of the under-proprietor.

6th.—In determining the amount payable by the under-proprietor to the Talookdar under the two last preceding rules, the former gross rental and the former payment of the under-proprietor will be held to be the average amount of the gross rental, and the average amount of the former payments of the under-proprietor for the twelve years preceding annexation, or for such portion of that time as the under-proprietor held a lease of the village from the Talookdar or for such portion of that time as the necessary information may be obtained.

8. In any case in which the clear share of the profit to which the under-proprietor is entitled under the rules contained in the last preceding paragraph does not exceed twelve per cent. of the gross rental, no sub-settlement shall be made. In this case, the under-proprietor will retain all *seer* and *nankar* land to which his right is established. If the profits derived from such land be less than one-tenth of the whole rental of the land to the sub-settlement of which the right was established, the Talookdar shall increase the amount of such land so that the total profit to the under-proprietor shall not fall below one-tenth of the gross rental. The under-proprietor will possess, in the whole of such land, a transferable and heritable right of property.

9. In any case in which an under-proprietor is entitled to a sub-settlement under the preceding rules, and in which the share of the gross rental which such under-proprietor is entitled to receive exceeds twelve per cent., but falls short of twenty-five per cent., such share will be increased so that it shall not be less than twenty-five per cent. of the gross rental. The cost of such increase will be borne half by the Government and half by the Talookdar. In this case, the cesses on account of roads, schools, &c., amounting to two and a half per cent. on the Government demand, will be payable by the Talookdar while the village expenses, including the allowances to the Putwaree and Chowkeedar, will be payable by the under-proprietor.

10. When a former proprietor, who is not entitled to a sub-settlement, has retained within the period of limitation, either by himself or by some other person or persons from whom he has inherited, possession of land which by virtue of his pro-proprietary right he held as *seer* or *nankar* when he was in proprietary possession, he will be deemed in respect of such land to be an under-proprietor, and will possess a heritable and transferable right of property therein, subject to the payment of such amount as may be due by him to the superior proprietor.

11. If, in any case, the founder of a *Poorwa* or hamlet, who is unable to establish a right to sub-settlement, can show that, in consideration of having founded such *Poorwa* or hamlet, he has held therein, within the period of limitation, possession of *seer* or *nankar* land, he will be recognized as an under-proprietor in such land, subject to the payment of such amount as may be due by him to the Talookdar. The amount of such payment will be determined according to the rules for determining the amount of the payments due by other under-proprietors on their *seer* or *nankar* lands.

12. Claims to proprietary and under-proprietary rights in *jagheers* will be treated according to the same rules which are applicable to similar claims in talookas.

13. Cases in which claims to under-proprietary rights have been disposed of otherwise than in accordance with these rules

will be open to revision, but this rule will not apply to cases disposed of by arbitration or by agreement of the parties.

SIMLA, *The 20th August* 1866. } J. STRACHEY, *Chief Commissioner of Oudh.*

THE INDIAN TRUSTEE ACT, 1866.

ACT No. XXVII OF 1866.

(Received the assent of the Governor-General on the 24th October 1866.)

An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable.

Recites the expediency of consolidating and amending the law relating to the transfer of property vested in Mortgagees and Trustees to which English Law is applicable.

1. Repeals Act XXIV, 1841, Section 3, and so much of Act XIV, 1852, as extends Section 3 to the Straits' Settlements, &c.

2. Interprets the words Immoveable Property, Stock, Hold and Holding, Contingent Right, Convey and Conveyance, Transfer, High Court, Trust and Trustee, Lunatic, Person of unsound mind, Heir and Devisee, Mortgage, Person, and words of Number and Gender

3. Confines the operation of the Act to cases to which the English Law is applicable.

4—6. Empowers the High Court to appoint a Trustee of immoveable property and (5) of contingent rights in immoveable property and (6) of any Stock or Government Securities, or any thing in action vested on a Lunatic upon any trust or mortgage, &c., whether solely or jointly with another person.

7. Gives the same power to the High Court in respect of Stock standing in name of deceased person whose executor, &c., is Lunatic.

8—9. Gives the same power to High Court in respect of immoveable property or (9) contingent right in such property held by any minor, &c.

10—13. Gives the same power to High Court in respect of immoveable property, or (12) contingent right in immoveable property held by person out of the jurisdiction, or who cannot be found; or (11) held by person jointly with another out of the jurisdiction or who cannot be found; and (13) gives the same power in respect of contingent right in immoveable property.

14—16. Gives the same power to the High Court in cases in which of several Trustees it is unknown which is the survivor; and (15) in which it is unknown whether the last acting Trustee be living or dead; and (16) in which a Trustee shall have died intestate, or without an heir or without a known heir.

17. Gives the same power to High Court in respect of immoveable property subject to a contingent right in an unknown person, &c.

18. Gives power to High Court in respect of immoveable property which has been conveyed by way of mortgage to a person who has died without having entered into possession, or into the receipt of the rents or profits, and the mortgage money shall have been paid off, &c., &c., in which cases the Court may make vesting order if heir or devisee shall be out of the jurisdiction, &c., or refuses to convey; or, when it is not known, who is survivor of several devisees; or when mortgagee shall be dead without an heir, &c.

20. Empowers High Court to order a person to convey, instead of making such order as aforesaid, &c.

21—24. Gives power to High Court to make transfer order in respect of Stock, &c., and things in action vested in persons, any of whom are out of the jurisdiction, &c.; and (22) gives similar power when sole Trustee refuses, &c.; or (23) when any one of several Trustees refuse to transfer &c.; or (24) when Stock, &c., is vested in sole Trustee who is out of the jurisdiction, &c.

25-26. Declares what shall be the effect and consequential rights of order made under previous Sections as respects Stock, Government Securities, &c., and (26) as respects things in action.

27—29. Gives power to High Court to transfer, &c., after non-execution, &c. of its own order on any person to transfer, or (28) on deceased person, and his executor neglects to transfer; and (29) extends all the aforesaid provisions to all Companies and Associations.

30. Gives similar power of transfer to High Court when property is vested in Trustee or Minor.

31—32. Declares that persons holding or entitled, &c., under decree or order for sale of immoveable property, shall be deemed as holding under a Trust within the meaning of this Act, and (32) authorizes the Court to make vesting order, to have the same effect as a conveyance, &c.

33—34. Authorizes the Court when order made for specific performance or partition, or exchange in any case, to declare rights of parties, &c., and (34) to make declarations as to the manner in which right to Stock, &c., shall be exercised.

35—37. Empowers High Court to appoint new Trustee, &c.; and (36) to direct that immoveable property subject to Trust shall vest in such Trustee; and (37) to direct that such Trustee may call for transfer of Stock, &c.

38. Appointments under this Act to operate no further as a discharge to former Trustees than appointment under any power would.

39—42. Entitles any person beneficially interested to apply for order under this Act; by (40) petition upon which (41) Court may order reference, &c., or (42) dismiss it, with or without costs.

43. Empowers the Court to make an order under this Act whenever (without petition) in any proceeding, such order would be proper upon petition.

44. Makes recitals in order of specified facts conclusive as to those facts upon any question in any Civil Court as to validity of order.

45. Extends the above provisions to property held in Trust for any Charity or Society, &c.

46. Authorizes the payment into Court of money, &c., if the person entitled is a minor or person of unsound mind.

47. Authorizes Court to hear, &c., cause as against Trustee who is made a defendant, if he cannot be found after diligent search for him.

48. Makes orders under this Act liable to same stamp duties as deeds executed to some intent.

49. Empowers Court to order money to be raised for payment of costs out of property concerned.

50. Authorizes Court upon petition under this Act concerning person of unsound mind, to direct an enquiry as to unsoundness and capacity, to manage his affairs, &c.

51. Authorizes Court to postpone making order on petition until right is declared in a suit, &c.

52. Declares order under, or purporting to be under, this Act a complete indemnity to persons acting under it.

53. Declares orders under this Act to be of same effect, &c., as decrees.

54. Names the Act.

55. Extends the Act to Straits' Settlements.

Preamble.

Whereas it is expedient to consolidate and amend the laws relating to the conveyance and transfer of moveable and immoveable property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable; It it hereby enacted as follows:—

Acts repealed.

1. Section 3 of Act XXIV of 1841 *(for the greater uniformity of the law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the effects of Testators; illusory appointments; the trasfer of estates by persons under disabilities pursuant to the direction of Courts,*

and the better management of the property of such persons, and other like matters), and so much of Act No. XIV of 1852 (*for extending the provisions of Acts XXIV of* 1841 *and XVII of* 1843 *to the Straits' Settlement*) as extends the provisions of the said Section to the Settlement of Prince of Wales' Island, Singapore and Malacca are hereby repealed: Provided that all proceedings under the said Section or Act commenced before this Act comes into operation, may be proceeded with under the said Section or Act or according to the provisions of this Act, as shall be thought expedient by the person by whom they were commenced.

Interpretation.

II. In this Act, unless there be something repugnant in the subject or context—

"Immoveable property" shall extend to and include messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein:

"Immoveable property."

"Stock" shall mean any fund, annuityor security transferable in books kept by any Company or Society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein. It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in British India:

"Stock."

"Hold" and "Holding" shall be applicable to any vested estate, whether for life or of a greater or less description, in possession, futurity or expectancy, in any immoveable property.

"Hold" and "Holding."

"Contingent right" as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift of limitation of such interest or possibility be or be not ascertained; also a right of entry, whether immediate or future, and whether vested or contingent:

"Contingent right."

"Convey" and "Conveyance" applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which

"Convey" "Conveyance."

such person holds, or in which he is entitled to a contingent right, either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI of 1854 *(to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English law is applicable)*:

"Transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock, or Government securities can transfer such stock or Government securities from himself to another:

"Transfer."

"High Court" shall mean every Court now or hereafter established under the Statute 24 & 25 Vic., cap. 104, and also the Chief Court of the Punjab, or such one or more Judges of the said Courts respectively as shall be appointed by the Chief Justice or the Senior Judge, as the case may be, to entertain applications and make orders under this Act:

"High Court."

"Trust shall not mean the duties incident to an estate conveyed by way of mortgage; but with this exception, the words "Trust" and "Trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the Trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person:

"Trust" "Trustee."

"Lunatic" shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs:

"Lunatic."

"Person of unsound mind" shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs:

"Person of unsound mind."

"Heir" and "Devisee."

In the case of a will made or an intestacy occurring before the first day of January 1866, "Heir" shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property: and "Devisee" shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent.

In the case of a will made or an intestacy occurring on or after the first day of January 1866, "Heir" shall mean any person claiming an interest in the immoveable property of a deceased person under the the rules for the distribution of an intestate's estate; and "Devisee" shall mean any person taking immoveable property under a bequest, and any person, other than an executor or administrator, claiming an interest in immoveable property, not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession:

"Mortgage."

"Mortgage" shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money:

"Person."

"Person" shall include any Company or Association, or body of persons whether incorporated or not:

Number. Gender.

Words importing the singular number only shall extend to several persons or things; words importing the plural number shall apply to one person or thing; words importing the masculine gender shall extend to a female.

The High Court to have jurisdiction in what cases.

III. The powers and authorities given by this Act to the High Courts shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect

to property within the local limits of the extraordinary original Civil jurisdiction of the said Courts respectively.

High Court may convey estates of lunatic Trustees and Mortgagees;

IV. When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a conveyance of the property in the same manner for the same estate.

and may convey contingent rights.

V. When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said High Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

High Court may transfer stock or Government securities of lunatic Trustees and Mortgagees.

VI. When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities, or to any thing in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof: and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or Government securities or thing in action upon any trust or by way of mortgage, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, either in such person

or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said High Court may appoint.

Power to transfer stock or Government securities of deceased persons.

VII. When any stock or Government securities shall be standing in the name of any deceased person whose executor or administrator is a lunatic or person of unsound mind, or when any thing in action shall be vested in any lunatic or person of unsound mind as the executor or administrator of a deceased person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

High Court may convey estates of minor Trustees and Mortgagees.

VIII. Where any minor shall hold any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the minor Trustee or Mortgagee had attained his majority, and had duly executed a conveyance of the property in the same manner for the same estate.

Contingent rights of minor Trustees and Mortgagees.

IX. When any minor shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the minor had attained his majority, and had duly executed a deed so releasing or disposing of the contingent right.

High Court may convey the estate of a Trustee out of the jurisdiction of the Court.

X. When any person solely holding any immoveable property upon any trust shall be out of the jurisdiction of the High Court or cannot be found, it shall be lawful for the said

Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, and the order shall have the same effect as if the Trustee had duly executed a conveyance of the property in the same manner and for the same estate.

High Court may make order in cases where persons hold immoveable property in trust jointly with persons out of jurisdiction of Court, &c.

XI. When any person or persons shall hold any immoveable property in trust jointly with a person not within the jurisdiction of the High Court, or who cannot be found, it shall be lawful for the said Court to make an order vesting the property in the person or persons so jointly holding, or in such last-mentioned person or persons together with any other person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance of the property in the same manner for the same estate.

Contingent rights of Trustees.

XII. When any person solely entitled to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the Trustee had duly executed a conveyance so releasing or disposing of the contingent right.

High Court may make order in cases where persons are jointly entitled with others out of the jurisdiction of the Court to a contingent right in immoveable property.

XIII. When any person jointly entitled with any other person or persons to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last-mentioned person or persons together with any other person or persons; and the order shall have the same effect as if the Trustee out of

the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

When it is uncertain which of several Trustees was the survivor.

XIV. Where there shall have been two or more persons jointly holding any immoveable property upon any trust, and it shall be uncertain which of such Trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the survivor of such Trustees had duly executed a conveyance of the property in the same manner for the same estate

When it is uncertain whether the last Trustee be living or dead.

XV. Where any one or more person or persons shall have held any immoveable property upon any trust, and it shall not be known, as to the Trustee last known to have held such property, whether he be living or dead, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the last Trustee had duly executed a conveyance of the property in the same manner for the same estate.

When Trustee dies without an heir.

XVI. When any person holding any immoveable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such Trustee had duly executed a conveyance of the property in the same manner for the same estate.

Contingent right of unborn Trustee.

XVII. When any immoveable property is subject to a contingent right in an unborn person, or class of unborn persons who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High Court to make an order

which shall wholly release and discharge such property from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would, upon coming into existence, hold in such property.

Power to make an order for vesting the estate on refusal or neglect of a Trustee to convey or release.

XVIII. In every case where any person holds or shall hold jointly or solely any immoveable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such Trustee by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, requiring such Trustee to convey the same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such Trustee has wilfully refused or neglected to convey the said property for the space of twenty-eight days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate as the Court shall direct; or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the Trustee had duly executed a conveyance of the property, or a release of such right, in the same manner and for the same estate.

Power to convey in place of Mortgagee.

XIX. When any person to whom any immoveable property has been conveyed by way of mortgage, shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last mentioned person shall consent to an order for the re-conveyance or vesting of such property, then in any of the following cases, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, that is to say,—

When an heir or devisee of such mortgagee shall be out of the jurisdiction of the High Court, or cannot be found:

When an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of twenty-eight days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person:

When it shall be uncertain which of several devisees of such mortgagee was the survivor:

When it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee whether he be living or dead:

When such mortgagee shall have died intestate as to such property and without an heir, or shall have died, and it shall not be known who is his heir or devisee:

And the order of the said High Court made in any one of the foregoing cases, shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate.

Power to appoint a person to convey in certain cases.

XX. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immoveable property, or having the effect of a release or disposition of the contingent right of any person or persons, born or unborn, it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property or release or dispose of such contingent right; and the conveyance, or release or disposition of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing or disposing of the contingent right, as an order of the High Court would in the particular case have had under the provisions of this Act. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order vesting

in any person or persons the right to transfer any stock transferable in the books of any Company or Society established or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to make an order directing the Secretary or any Officer of such Company or Society at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to all Companies or Societies and their officers and servants for all acts done or permitted to be done pursuant thereto.

When Trustees of stock or Government securities out of the jurisdiction.

XXI. When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court, or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock or Government securities or thing in action upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any person or persons the said Court may appoint. When any sole Trustee of any stock, Government securities, or thing in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

When Trustee of stock, &c., refuses to transfer.

XXII. Where any sole Trustee of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direc-

tion of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof in such person or persons as the said Court may appoint.

When one of several Trustees of stock, &c., refuses to transfer or receive and pay over dividends.

XXIII. Where any one of the Trustees of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover such thing in action according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, in the other Trustee or Trustees of the said stock, Government securities, or thing in action, or in any person or persons whom the said Court may appoint jointly with such other Trustee or Trustees.

When stock, &c., is standing in the name of a deceased person.

XXIV. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such executor or administrator be living or dead, or such executor or administrator shall neglect or refuse to transfer such stock or Government securities, or receive the dividends, interest or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the

said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Effect of an order vesting the legal right to transfer stock, &c.

XXV. Where any order shall have been made under this Act vesting the right to any stock or Government securities in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock and Government securities into his or their own name or names or otherwise, or relating to the receipt of the dividends, interest or income thereof, to the extent and in conformity with the terms of such order. All Companies and Associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such Companies, Associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made. After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any Company or Association, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest or income thereof.

Effect of an order vesting legal right in a thing in action.

XXVI. Where any order shall have been made under this Act by the High Court vesting the legal right to sue for or recover any thing in action, or any interest in respect thereof, in

any person or persons, such legal right shall vest accordingly; and thereupon it shall be lawful for the person or persons so appointed to carry on, commence and prosecute, in his or their own name or names, any suit or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such thing in action.

On neglect to transfer stock, &c, for twenty-eight days, order may be made vesting right to transfer in such person as the Court shall appoint.

XXVII. Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

On like neglect by executor, similar order may be made.

XXVIII. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall refuse or neglect to transfer such stock or Government securities, or receive the dividends, interest or income thereof for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, in any person or persons whom the said Court may appoint.

Companies and Associations to comply with such orders.

XXIX. When any order being or purporting to be under this Act shall be made by the High Court, vesting the right to any stock or Government securities, or vesting the right to transfer any stock or Government securities, or vesting the right to call for the transfer of any stock or Government securities in any

person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock or Government securities into his or their own name or names or otherwise, to the extent and in conformity with the terms of the order. All Companies and Associations, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such Companies, Associations or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Power to make an order for the transfer or receipt of dividends of stock, &c., in name of a minor Trustee.

XXX. When any minor shall be solely entitled to any stock or Government securities upon any trust, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof. When any minor shall be entitled jointly with any other person or persons to any stock or Government securities upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, either in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

When a decree is made for sale of immoveable property for payment of debts.

XXXI. When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act; and the High Court is hereby empowered to make an order wholly discharging the

contingent right under the will of such deceased debtor of any unborn person.

High Court may make an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale.

XXXII. When any decree or order shall have been made by the High Court, whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein, being a party to the suit or proceeding in which such decree or order shall have been made and bound thereby, or being otherwise bound by such decree or order, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act. In every such case, it shall be lawful for the High Court, if the said Court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such property or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct. Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate.

Court to declare what parties are Trustees of immoveable property comprised in any suit, and as to the interests of persons unborn.

XXXIII. Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, or for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are Trustees of such property or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his life-time a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the in-

terests of persons who, upon coming into existence, would be Trustees within the meaning of this Act. Thereupon it shall be lawful for the High Court to make such order or orders as to the estates, rights and interests of such persons, born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights and interests of Trustees, born or unborn.

Power to make directions how the right to transfer stock shall be exercised.

XXXIV. It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities or thing in action vested under the provisions of this Act shall be exercised, and thereupon the person or persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

Power to Court to make order appointing new Trustees.

XXXV. In all cases in which it shall be expedient to appoint a new Trustee or new Trustees, and it shall be found inexpedient, difficult or impracticable so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing a new Trustee or new Trustees, whether there be any existing Trustee or Trustees or not at the time of making such order, and if there be such Trustee or Trustees, either in substitution for or in addition to him or them. The person or persons who, upon the making of such order shall be Trustee or Trustees, shall have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

New Trustees to have powers of Trustees appointed by decree in suit.

Power to Court to vest immoveable property in new Trustee.

XXXVI. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the Trustee or Trustees, for such estate as the Court shall direct. Such order shall

have the same effect as if the person or persons who, before such order, was or were the Trustee or Trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to Court to vest right to sue in new Trustees.

XXXVII. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest or income thereof, or to sue for or recover any thing in action subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the Trustee or Trustees.

Old Trustees not to be discharged from liability.

XXXVIII. Any such appointment by the High Court of new Trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing Trustee, than an appointment of new Trustees under any power for that purpose contained in any instrument would have done.

Who may apply.

XXXIX. An order under any of the hereinbefore contained provisions, for the appointment of a new Trustee or new Trustees, or concerning any immoveable property, stock, Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, or Government securities, or thing in action, whether under disability or not, or upon the application of any person duly appointed as a Trustee thereof; and an order under any of the provisions hereinbefore contained, concerning any immoveable property, stock, Government securities, or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

Application may be by petition.

XL. When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him

to present a petition to the High Court for such order as he may deem himself entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

What may be done upon petition.

XLI. Upon the hearing of any such petition, it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons.

Court may dismiss petition with or without costs.

XLII. Upon the hearing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Power to make an order in a cause.

XLIII. Whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court, either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

Orders made by the High Court founded on certain allegations to be conclusive evidence of the matter contained in such allegations.

XLIV. Whenever any order shall be made under this Act by the High Court, for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a Trustee or Mortgagee, or on an allegation that a Trustee or the heir or devisee of a Mortgagee is out of the jurisdiction of the High Court, or cannot be found, or that it is uncertain which of several Trustees, or which of several devisees

of a Mortgagee, was the survivor, or whether the last Trustee, or the heir, or last surviving devisee of a Mortgagee, be living or dead, or on an allegation that any Trustee or Mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of Civil Judicature upon any question as to the legal validity of the order: Provided always, that nothing herein contained shall prevent the High Court directing a re-conveyance of any immoveable property conveyed or assigned by any order under this Act, or a re-disposition of any contingent right conveyed or disposed of by such order; and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right, to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained.

Trustees of charity.

XLV. It shall be lawful for the High Court to exercise the powers herein conferred for the purpose of vesting any immoveable property, stock, Government securities, or thing in action in the Trustee or Trustees of any charity or society, over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such Trustee or Trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Money of minors and persons of unsound mind to be paid into Court.

XLVI. Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities, or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust in any cause then depending concerning such money, or if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court; and it shall be lawful for

the said Court, upon petition in a summary way, to order any money so paid to be invested in Government securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof, as to the said Court shall seem reasonable.

Court may make a decree in the absence of a Trustee.

XLVII. Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a Trustee, to serve him with the process of the Court, and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a Trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such Trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause: Provided always, that no such decree shall bind, affect, or in any wise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors, or administrators for or in respect of any estate, right or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a Trustee as aforesaid.

Orders made under this Act to be chargeable with the same stamp duty as deeds of conveyance.

XLVIII. Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities, or thing in action as can only be transferred by stamped deed or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities, or thing in action. Every such order shall be duly stamped for denoting the payment of the said duty.

Costs may be paid out of the estate.

XLIX. The High Court may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the immoveable or moveable property, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper.

Enquiry concerning person of unsound mind.

L. Upon any petition being presented under this Act to the High Court concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and incapable of managing himself and his affairs. Such order shall have the same effect as the like order made under Section 1 of Act XXXIV of 1858 (*to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*), and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last mentioned Act. The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded.

Suit may be directed.

LI. Upon any petition under this Act being presented to the High Court, it shall be lawful for the said Court to postpone making any order upon such petition, until the right of the petitioner shall have been declared in a suit duly instituted for that purpose.

Indemnity to all persons obeying orders passed under this Act.

LII. Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsover for any act done pursuant thereto; and it shall not be necessary for such persons to enquire concerning the propriety of such order, or whether the High Court has jurisdiction to make the same.

Orders under the Act to be executed as, and have the effect of, decrees.

LIII. Any order made by the High Court under this Act shall have the same effect, and be executed in the same manner as a decree.

Short Title.

LIV. This Act may be cited as "The Indian Trustee Act, 1866."

From 1st February 1867, this Act to apply to Straits' Settlement.

LV. On and after the first day of February 1867 (but not till then), the powers and authorities given by this Act to the High Courts, shall and may be exercised by the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca, with respect to moveable and immoveable property within the local limits of the jurisdiction of that Court; and, in the said Settlement, Section 2 of this Act shall be read as if the words and figures "first day of February 1867" were substituted for the words and figures "first day of January 1866."

THE TRUSTEES' AND MORTGAGEES' POWERS ACT, 1866.

ACT No. XXVIII OF 1866.

(Received the assent of the Governor-General on the 24th October 1866.)

An Act to give to Trustees, Mortgagees and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages and Wills, and to amend the Law of property and relieve Trustees.

Recites expediency of making certain powers, &c., usually invested in Settlements, &c., incident to the estates, &c., so as to dispense with the insertion of those powers, &c., in the instruments.

1. Construes the terms Immoveable Property, Mortgage, Mortgagor, Mortgagee, High Court.

Powers of Trustees for Sale, &c., and Trustees of Renewable Leases. 2—5.

2—4. Declares that Trustees, having power of sale, may sell in lots, &c., and by auction, &c., and either at one or several times; and (3) sale may be under special conditions, &c., and property may be bought in, &c.; and (4) persons selling may convey, &c.

5. Directs that proceeds of sale shall be invested in Government Securities, until it is invested according to Trust.

Powers of Mortgagees. 6—19.

6—9. In case of specified defaults in payment of interest or principal, &c., mortgagees, or their representatives shall have specified powers,

viz. one power to sell, &c.; *two* power to appoint, &c., a Receiver, &c.; and (7) receipts of persons having power of sale shall discharge purchasers; but (8) sale shall not be made till after six months' notice; and (9) directs how the proceeds of sale shall be applied.

10—11. Gives the person having the power of sale power to convey, &c.; and (11) to demand from the person entitled to the property subject to the charge, the title deeds, &c.

12—18. Directs how Receiver may be appointed by person entitled to appoint, &c.; and (13) directs that such Receiver shall be deemed the Agent of the person appointing him, &c.; and (14) authorizes Receiver to demand and recover, &c.; and (15) makes him removable by the same authority as appoints; and (16) entitles Receiver to retain in lieu of his costs and charges, &c., or commission not exceeding five per cent; and (17) requires Receiver to insure property on requisition of party interested; and (18) directs the order in which he shall discharge liabilities, &c.

19. Limits the powers contained in Sections 6 to 18 to Mortgages and charges to secure money.

Leases. 20—22.

20. Restricts the effect of license to alien.

21—22. Conditions for re-entry not to be destroyed by partial licenses; and (22) entitles each several reversioner of several rents to the benefit of conditions of re-entry.

Rent-charges. 23.

23. Release from a rent-charge of part of the property charged shall not extinguish the whole of the rent charge.

Powers. 24—28.

24. Directs what shall be a valid execution of deed under a power

25—26. Authorises Legatees in trust to raise money by sale, notwithstanding absence of express power in the Will; and (26) extends same power to person in whom the property is vested by survivorship, &c.; and (27) gives executors the same power as is given to Legatees.

28. Exonerates purchasers and mortgagees from the obligation of enquiring if the powers conferred by Sections 25, 26, and 27 have been duly exercised.

Inheritance. 29.

29. In cases of Intestacy occurring before 1st January 1866, and a total failure of heirs of the purchaser, &c., the descent shall be traced from the person last entitled.

Assignment of Moveables and Terms for years. 30.

30. Empowers person to assign movable property, &c., to himself and another.

Purchasers. 31.

31. Exonerates persons paying purchase-money or mortgage-money to see to its application.

Investment of Trust Funds. 32.

32. Empowers Trustees to call in and re-invest Trust Funds; but consent of *cestui que* Trust necessary, if he is under no disability.

Trustees and Executors. 33—43.

33. Entitles Trustee of property for a minor, absolutely or on his reaching his majority, to apply the income to the maintenance or education of the minor; and invest and accumulate the surplus, &c.

34—35. Provides for the appointment of new Trustee in case of death of Trustee and other contingencies; and gives the new Trustee the same powers, &c., as his predecessor had; and (35) extends the power of appointment to case of Trustee named in Will having died in life-time of Testator.

36. Receipts of Trustee entitled to recover shall discharge person paying.

37. Sets forth a Clause of indemnity for Trustees, and provides that every Deed, Will, or other Instrument containing a Trust, shall be deemed to contain it.

38. Authorizes Executors to pay debts on any evidence they may deem sufficient, and to compound debts, &c.

39. Trustees *bonâ fide* making payment, &c., under a power shall not be liable for the money by reason that the person who gave the power died before the payment, &c.

40—41. Discharges Executors, &c., from liability for rent and under-covehants and agreements, if he sets apart a sufficient sum to satisfy the same, and assigns to reversioner the reversionary interest, &c.; and (41) makes the same provision as to liability of Executor, &c., to rent-charge.

42. Executor giving same notices as High Court would give in administration suit to creditors, &c., to come in and prove, may proceed to distribute in same manner as Court might.

43. Authorizes Trustee, Executor, &c., to apply by petition to Judges of High Court for opinion, advice, or direction, respecting the management or administration of the estate, &c.

General Provisions. 44—47.

44. Entitles tenants for life to execute powers, notwithstanding incumbrances.

45. Restricts the Act to persons entitled, &c., under a deed, &c., and to property in British India and to cases to which English Law is applicable.

46. Names the Act.

47. Act to extend Straits' Settlements from 1st February 1867.

Preamble.

WHEREAS it is expedient that in cases to which English Law is applicable, certain powers and provisions usually inserted in Settlements, Mortgages, Wills and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument, and that in such cases Trustees should be relieved; It is enacted as follows:—

Interpretation of terms.

I. In the construction of this Act, unless there be something repugnant in the subject or context—

"Immoveable Property."

"Immoveable Property" shall include land, any benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth:

"Mortgage."

"Mortgage" shall be taken to include every instrument by virtue whereof immoveable property is in any manner conveyed, pledged, or charged as security for the re-payment of money or moneys' worth lent, and to be re-conveyed, or released on satisfaction of the debt:

"Mortgagor."

"Mortgagor" shall be taken to include every person by whom any such conveyance, pledge, or charge as aforesaid shall be made:

"Mortgagee."

"Mortgagee" shall be taken to include every person to whom or in whose favour any such conveyance, pledge or charge as aforesaid is made or transferred: and

"High Court."

"High Court" means any Court established or to be established under Statute 24 and 25 Vic., cap. 104, and includes the Chief Court of the Punjab and the Supreme Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca.

Powers of Trustees for sale, &c., and Trustees of renewable lease-holds.

Trustees empowered to sell in any sell in lots, and either by public auction or private contract.

II. In all cases where, by any will, deed or other instrument of settlement, it is expressly declared that Trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any

immoveable property named or referred to in, or from time to time subject to, the uses or trusts of such will, deed or other instrument, it shall be lawful for such Trustees or other persons, whether such property be vested in them or not, to exercise such power of sale by selling such property either together or in lots, and either by public auction or private contract, and either at one time or at several times.

Sale may be made under special conditions, and Trustees may buy in, &c.

III. It shall be lawful for the persons making any such sale to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for sale, as they shall think fit; and also to buy in the property or any part thereof at any sale by auction, and to rescind or vary any contract for sale, and to re-sell the property which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby; and no purchaser under any such sale shall be bound to enquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase-money in the purchase of any other property or otherwise.

Trustees exercising power of sale, &c., empowered to convey.

IV. For the purpose of completing any such sale as aforesaid, the persons empowered to sell as aforesaid shall have full power to convey or otherwise dispose of the property in question, in such manner as may be necessary.

Money arising from sales, to be laid out in the manner indicated in the will, &c.

V. The money so received upon any such sale as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed or instrument containing the power of sale; and until the money to be received upon any sale as aforesaid shall be so disposed of, the same shall be invested at interest in Government securities for the benefit of such persons as would be entitled to the benefit of the money, and the interest and profits thereof, in case such money were then actually laid out as aforesaid: Provided that if the will, deed or instrument shall contain no such

Until it is so laid out, money to be invested in Government securities.

indication, the persons empowered to sell as aforesaid shall invest the money so received upon any such sale in their names upon Government securities in India, and the interest of such securities shall be paid and applied to such person or persons for such purposes and in such manner as the rents and profits of the property sold as aforesaid would have been payable or applicable in case such sale had not been made.

Powers of Mortgagees.

Powers incident to mortgages.

VI. Where any principal money is secured or charged by deed on any immoveable property, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators, and assigns, shall, at any time after the expiration of one year from the time when such principal money shall have become payable, according to the terms of the deed, or after any interest on such principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely:—

1st.—A power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner:

2nd.—A power to appoint or obtain the appointment of a Receiver of the rents and profits of the whole or any part of the property in manner hereinafter mentioned.

Receipts for purchase money sufficient discharges.

VII. Receipt for purchase money given by the person or persons exercising the power of sale hereby conferred shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase money.

Notice is to be given before sale; but purchaser relieved from inquiry as to circumstances of sale.

VIII. No such sale as last aforesaid shall be made until after six months' notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property; but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorised exercise of such power, shall have his remedy in damages against the person or persons selling.

Application of purchase money.

IX. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows:—first, in payment of all the expenses incident to the sale or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his executors, administrators or assigns, as the case may be.

Conveyance to the purchaser.

X. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of: Provided that nothing herein contained shall be construed to authorize the mortgagee of a term of years to sell and convey the fee simple of the property comprised therein in cases where the mortgagor could have disposed of such fee simple at the date of the mortgage.

Owner of charge may call for title deeds and conveyance of legal estate.

XI. At any time after the power of sale hereby conferred shall have become exerciseable, the person entitled to exercise the same shall be entitled to demand and recover from the per-

son entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed or surrendered to and then were vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be outstanding in a Trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

Appointment of Receiver.

XII. Any person entitled to appoint or obtain the appointment of a Receiver as aforesaid, may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be Receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of the property require such last-mentioned person or persons to appoint a fit and proper person as Receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit. No person shall be ineligible for the office of Receiver merely because he is an Officer of the High Court.

Receiver deemed to be the agent of the mortgagor.

XIII. Every Receiver appointed as aforesaid shall be deemed to be the agent of the person entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults unless otherwise provided for in the charge.

Powers of Receiver.

XIV. Every Receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues and profits of the property of which he is appointed Receiver, by suit, distress, or otherwise, in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge, to the full extent of the

estate or interest which the person who created the charge had power to dispose of.

Receiver may be removed.

XV. Every Receiver appointed as aforesaid may be removed by the like authority, or on the like requisition as before provided with respect to the original appointment of a Receiver, and new Receivers may be appointed from time to time.

Receiver to receive a commission not exceeding five per cent.

XVI. Every Receiver appointed as aforesaid shall be entitled to retain out of any money received by him, in lieu of all costs, charges, and expenses whatsoever, such a commission, not exceeding five *per centum* on the gross amount of all money received, as shall be specified in his appointment, and if no amount shall be so specified, then five *per centum* on such gross amount.

Receiver to insure if required.

XVII. Every Receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge which is in its nature insurable.

Application of moneys received by him.

XVIII. Every Receiver appointed as aforesaid shall pay and apply all the money received by him in the first place in discharge of Government revenue and of all taxes, rates and assessments whatsoever, and in payment of his commission as aforesaid, and of the premiums on the insurances, if any; and in the next place in payment of all the interest accruing due in respect of any principal money then charged on the property over which he is Receiver, or on any part thereof; and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators or assigns.

This part to relate to charges by way of mortgage only.

XIX. The powers and provisions contained in Sections 6 to 18 of this Act, both inclusive, relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

Leases.

Restriction on effect of license to alien.

XX. Where any license to do any act which without such license would create a forfeiture, or give a right to re-enter, under a condition or power reserved in any lease heretofore granted, or to be hereafter granted, shall, at any time after this Act comes into operation, be given to any lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent any proceeding for any subsequent breach (unless otherwise specified in such license); and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made dispunishable by such license, in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done.

Restricted operation of partial licenses.

XXI. Where in any lease heretofore granted or to be hereafter granted, there is or shall be a power or condition of re-entry on assigning or under-letting, or doing any other specified act without license, and a license at any time after the passing of this Act shall be given to one of several lessees or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license; or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees, or owner or owners, of the other shares or interests in the property, or by the lessee or owner of

the rest of the property as the case may be over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

Apportionment of conditions of re-entry in certain cases.

XXII. Where the reversion upon a lease is severed, and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Rent-charges.

Release of part of land charged, not to be an extinguishment.

XXIII. The release from a rent-charge of part of the immoveable property charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the property released, without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Powers.

Mode of execution of powers.

XXIV. A deed hereafter executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing not testamentary, notwithstanding it shall have been expressly required that a deed or instrument in writing made in exercise of such power should be executed or attested with some additional or other form of execution or attestation or solemnity: Provided always,

that this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument: and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend.

Legatee in trust may raise money by sale, notwithstanding want of express power in the will.

XXV. Where by any will which shall come into operation after the passing of this Act, the testator shall have charged his immoveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have bequeathed the property so charged to any Trustee or Trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debt, legacy or sum of money out of such property, it shall be lawful for the said legatee or legatees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy or money as aforesaid by sale and absolute disposition by public auction or private contract, of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other; and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of re-payment as the person or persons executing the same shall think proper.

Powers given by last Section extended to survivors, legatees, &c.

XXVI. The powers conferred by the last preceding Section shall extend to all and every person or persons in whom the property bequeathed in trust shall for the time being be vested by survivorship, or under the laws relating to intestate or testamentary succession, or to any person or persons who may be appointed under any power in the will, or by the High Court,

to succeed to the trusteeship vested in such legatee or legatees in trust as aforesaid.

Executors to have power of raising money, &c., where there is no sufficient bequest.

XXVII. If any testator who shall have created such a charge as is described in Section 25 of this Act, shall not have bequeathed the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any Trustee or Trustees, the executor or executors (if any) for the time being named in such will, shall have the same or the like power of raising the said moneys as is hereinbefore vested in the legatee or legatees in trust of the said property, and such power shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

Purchasers, &c, not bound to enquire as to powers.

XXVIII. Purchasers or mortgagees shall not be bound to enquire whether the powers conferred by Sections 25, 26, and 27 of this Act, or any of them, shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Inheritance.

Descent how to be traced.

XXIX. In cases of intestacies occurring before the first day of January 1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and there shall be a total failure of the heirs of such ancestor, then and in every such case the property shall descend, and the descent shall thenceforth be traced from the person last entitled to the property as if he had been the purchaser thereof. This Section shall be read as part of Act No. XXX of 1839 *(for the amendment of the law of inheritance.)*

Assignment of Moveables and Terms for Years.

Assignment to self and others.

XXX. Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit*, directly to himself and another person or other persons

or corporation, by the like means as he might assign the same to another.

Purchasers.

Not to be bound to see to the application of purchase money, &c.

XXXI. The *bonâ fide* payment to and the receipt of any person to whom any purchase or mortgage money shall be payable upon any express or implied trust, shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof.

Investment of Trust Funds.

On what securities trust funds may be invested.

XXXII. Trustees having trust money in their hands which it is their duty to invest at interest, shall be at liberty, at their discretion, to invest the same in any Government securities, and such Trustees shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature: Provided always, that no such original investment as aforesaid, and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

Trustees and Executors.

Trustees may apply income of property of minors, &c., for their maintenance.

XXXIII. In all cases where any property is held by Trustees in trust for a minor, either absolutely or contingently on his attaining majority, or on the occurrence of any event previously to his attaining majority, it shall be lawful for such Trustees, at their sole discretion, to pay to the guardians (if any) of such minor, or otherwise to apply for or towards the maintenance or education of such minor, the whole or any part of the income to which such minor may be entitled in respect of such property, whether there be any other fund applicable to the

same purpose, or any other person bound by law to provide for such maintenance or education, or not; and such Trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen: Provided always, that it shall be lawful for such Trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

Provisions for appointment of new Trustees, on death, &c.

XXXIV. Whenever any Trustee, either original or substituted, and whether appointed by any High Court or otherwise, shall die, or be six months absent from British India, or desire to be discharged from, or refuse, or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will, or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing Trustees or Trustee for the time being, or the acting executors or executor, or administrators or administrator of the last surviving and continuing Trustee, or for the retiring Trustees, if they shall all retire simultaneously, or for the last retiring Trustee, or where there are two or more classes of Trustees of the instrument creating the trust, then for the surviving or continuing Trustees or Trustee of the class in which any such vacancy or disqualification shall occur (and for this purpose any refusing or retiring Trustee shall, if willing to act in the execution of the power, be considered a continuing Trustee) by writing to appoint any other person or persons to be a Trustee or Trustees in the place of the Trustee or Trustees so dying, or being absent from British India, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid. So often as any new Trustee or Trustees shall be so appointed as aforesaid, all the trust property (if any) which for

the time being shall be vested in the surviving or continuing Trustees or Trustee, or in the heirs, executors or administrators of any Trustee, shall with all convenient speed be conveyed and transferred so that the same may be legally and effectually vested in such new Trustee or Trustees, either solely or jointly with the surviving or continuing Trustees or Trustee, as the case may require. Every new Trustee to be appointed as aforesaid, as well before as after such conveyance or transfer as aforesaid, and also every Trustee appointed by any High Court either before or after the passing of this Act, shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally nominated a Trustee by the deed, will, or other instrument (if any) creating the trust. The Official Trustee may, with his consent, and by the order of the High Court, be appointed, under this Section in any case in which only one Trustee is to be appointed, and such Trustee is to be the sole Trustee.

Appointment of new Trustee in place of Trustee predeceasing testator.

XXXV. The power of appointing new Trustees hereinbefore contained, may be exercised in cases where a Trustee nominated in a will has died in the life-time of the testator.

Trustees' receipts to be discharges.

XXXVI. The receipts of any Trustees or Trustee for any money payable to them or him by reason, or in the exercise, of any trusts or powers reposed or vested in them or him, shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.

XXXVII. Every deed, will, or other instrument creating a trust either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say, "that the Trustees or Trustee for the time being of the said deed, will, or other instrument, shall be respectively chargeable only for such

moneys, stocks, funds and securities, as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects, or defaults, and not for those of each other, nor for any banker, broker or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the Trustees or Trustee for the time being of the said deed, will, or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will, or other instrument."

Executors may compound, &c.

XXXVIII. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security for any debts due to the deceased, and to allow any time for payment of any such debts, as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims, and things whatsoever relating to the estate of the deceased, and for any of the purposes aforesaid to enter into, give, and execute such agreements, instruments of composition, releases, and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

Trustee &c., making payment under power of attorney, not to be liable by reason of death of party giving such power.

XXXIX. No Trustee, executor or administrator making any payment or doing any act *bonâ fide* under or in pursuance of any power of attorney, shall be liable for the moneys so paid or the act so done, by reason that the person who gave the power of attorney was dead at the time of such payment or act, or had done some act to avoid the power: Provided that the fact of the death, or of the doing of such act as last aforesaid, at the time of such payment or act *bonâ fide* done as aforesaid by such Trustee, executor or

administrator, was not known to him: Provided always, that nothing herein contained shall in any manner affect or prejudice the right of any person entitled to the money against the person to whom such payment shall have been made; but that such person so entitled shall have the same remedy against such person to whom such payment shall be made as he would have had against the Trustee, executor or administrator, if the money had not been paid away under such power of attorney.

As to liability of executor or administrator in respect of rents, covenants or agreements.

XL. Where an executor or administrator liable as such to the rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned, whether before or after the passing of this Act, to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be) of the estate of the deceased to meet any future liability under the said lease or agreement for a lease. The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease. Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

As to liability of executor, &c., in respect of rents, &c., in conveyance on rent-charge.

XLI. In like manner, where an executor or administrator liable as such to the rent, covenants, or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant, or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance, or agreement for a conveyance. The executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance. Nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

As to distribution of the assets of testator or intestate after notice given by executor and administrator.

XLII. Where an executor or administrator shall have given such or the like notices, as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration suit, for creditors and others to send in to the executor

or administrator their claims against the estate of the testator or intestate, such executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or a part thereof, as the case may be. Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

Trustee, executor, &c., may apply by petition to Judge of High Court for opinion, advice, &c., in management, &c., of trust property.

XLIII. Any Trustee, executor or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice or direction of such Judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate. Such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient. The Trustee, executor or administrator acting upon the opinion, advice or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such Trustee, executor or administrator in the subject matter of the said application: Provided nevertheless, that this Act shall not extend to indemnify any Trustee, executor or administrator, in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if such Trustee, executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction: and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

General Provisions.

Tenants for life &c., may execute powers, notwithstanding incumbrances.

XLIV. For the purposes of this Act, a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of immoveable or moveable property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever to any extent; but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

Operation of Act.

XLV. The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil or other instrument executed after this Act comes into operation, or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in British India and to cases to which English law is applicable.

Short title.

XLVI. This Act may be called "the Trustees and Mortgagees' Powers' Act, 1866."

From first February 1867, Act to apply to Straits' Settlement.

XLVII. On and after the first day of February 1867, but not till then, this Act shall apply to the Settlement of Prince of Wales' Island, Singapore and Malacca; and, in the said Settlement, Section 29 of this Act shall be read as if the words and figures "first day of February 1867" were substituted for the words and figures, "first day of January 1866."

STRAITS' SETTLEMENTS COURTS OF REQUESTS.

ACT No. XXIX OF 1866.

(*Received the assent of the Governor-General on the 24th October* 1866.)

An Act to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore and Malacca.

Recites the powers given by Letters Patent to establish Courts for the recovery of small debts, &c.; and the expediency of giving such Courts jurisdiction, &c., up to 50 dollars.

1. Courts established under the recited Letters Patent shall have jurisdiction, &c., up to 50 dollars.

2—8. Authorizes the appointment of Bailiffs and Appraisers by the Commissioners of the Courts of Requests, &c.; and the issue by such Commissioners of distress warrant in form prescribed in Act for arrears of rent up to 50 dollars, under which (4) warrant goods on the premises may be seized, and prescribes notice of such seizure to whom, and empowers the Commissioners to suspend the distress; and (5) in default of such suspension after five days, goods may be appraised and sold two days after notice; and (6) prescribes costs and their distribution; and (7) prohibits distress for rent up to 50 dollars, except under this Act; and (8) excludes from the remedy under this Act, rent exceeding 50 dollars, rent accruing out of the local jurisdiction of this Court, and rent due to Government.

9. Directs that Courts of Requests shall have a seal, and all process shall be stamped with it, and makes forgery, &c., of the seal a penal offence.

10. Directs that evidence in the Courts of Requests shall be taken on oath or solemn affirmation in specified cases, and makes the giving false evidence a penal offence.

11—13. Provides for the summoning of witnesses; and (12) provides a penalty for their non-attendance upon summons; and (13) empowers the Commissioners to issue a warrant for the apprehension of a defendant concealing himself or evading process, with intent to defraud the plaintiff, &c.

14—16. Makes fines imposed by the Court enforceable by order; and (15) makes money orders enforceable by execution against body or goods; and (16) provides for the case of orders for payment by instalments.

17. Authorizes the arrest and imprisonment of persons under warrant to take, &c.

18. Prohibits imprisonment twice under the same judgment, and execution against body and goods at the same time.

19. Under execution against goods, any goods may be seized (except necessary wearing apparel, bedding and tools, and implements of trade), and money, Bank Notes, Cheques, Bills, Promissory Notes, and Securities for money.

20—21. Provides penalty for contempts of Court; and (21) for assaults on Bailiffs and rescue, &c.

22—23. Empowers Commissioners to award damages against Bailiffs for neglect of duty, &c.; and (23) for extortion, misconduct, and other specified offences.

24—25. Provides a penalty against Clerk, Bailiff, &c., taking bribe, &c.; and (25) allows a summons in case of counter-claim to goods taken in execution.

26. In case of damages in action against Officer of the Court not exceeding 250 dollars, costs shall not follow, unless certified for by Judge.

27—30. Provides a Form for convictions; and (28) that orders, judgments, &c., shall not be quashed, &c., for want of form; and (29) that distress shall not be deemed unlawful for specified defects or want of form; and (30) that actions for any thing done in pursuance of this Act shall be brought within three calendar months, &c., and plaintiff shall not recover, if sufficient amends was tendered.

SCHEDULE A.—Form of Warrants. B.—Form of Inventory and Notice. C.—Scale of Fees on Distraints for House Rent. D.—Affidavit of Rent due. E.—Notice of Appraisers and Sale.

Preamble.

WHEREAS by the Letters Patent reconstituting the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, Her Majesty, among other things, authorized and empowered the Governor or President and Council of the said Settlement for the time being to erect and establish such Court or Courts of Judicature as they should see fit for the recovery of small debts, and for the trial and determination of all suits and causes whatsoever against any of the inhabitants of the said Settlement, wherein the debt, duty, or matter in dispute should not exceed the value of thirty-two dollars; and whereas under the said authority, Courts of Requests have been established at Penang, Province Wellesley, Singapore and Malacca; and whereas it is expedient that the said Courts, and also any other Courts which may hereafter be established under the said authority, should have jurisdiction in all suits wherein the matter in dispute shall not exceed the value of fifty dollars; It is enacted as follows:—

Courts of Requests authorised to try suits to an amount or value not exceeding 100 dollars.

I. From and after the passing of this Act, any Court or Courts established, or which may be established, in the Settlement of Prince of Wales' Island, Singapore and Malacca, under the said authority, shall have jurisdiction to try and determine all suits brought for the recovery of debts, and all suits and causes whatever against any of the inhabitants of the said Settlement or the places now, or at any

time hereafter to be, subordinate or annexed thereto, wherein the debt, duty, or matter in dispute shall not exceed the value of fifty dollars.

Appointment, remuneration and removal of Bailiffs and Appraisers.

II. It shall be lawful for the Commissioners of the Courts of Requests respectively in the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca, to appoint four or more persons to be Bailiffs and Appraisers for the purpose of this Act, and with the sanction of the Governor of the said Settlement to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient, and such persons shall be duly sworn before the said Commissioners, and shall also give security, to be approved by the said Commissioners, faithfully to discharge the duties of their office, and the said Commissioners shall have power to suspend or remove such persons so appointed: Provided that it shall be lawful for the said Commissioners respectively to appoint the Bailiffs who may be attached from time to time to the said Courts respectively to the office of Distraining Bailiffs and Appraisers, for the purposes of this Act, and to award to the said Officers such remuneration, in addition to their respective salaries drawn from the said Courts, as to the said Commissioners with the sanction of the Governor of the said Settlement shall appear expedient.

Issue of distress warrant.

III. It shall be lawful for any Commissioner of a Court of Requests in any such Station, upon the affidavit in the form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears of rent of any house or premises situate in such Station, not exceeding the amount of fifty dollars, or in case of absence of such party from such Station, or in case of respectable females who do not appear in public, upon the affidavit of the constituted Attorney of such party, stating the amount of such arrears, and for what time and at what rate the same became due, to issue a warrant under his hand and seal, in the form contained in the Schedule to this Act annexed (marked A) addressed to any one of such Officers of such Court,

directing him to levy the amount of such rent, together with the costs of the said distress, in the manner therein mentioned: Provided that it shall be lawful for any of the said Commissioners, upon personal examination of the party applying for such warrant, to grant or withhold the same, at the discretion of the said Commissioner.

Seizure of goods and chattels.

IV. By virtue of such warrant, it shall be lawful for such Officer to seize the whole or such part of the goods and chattels upon the said premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and he shall thereupon make an inventory of the goods and chattels so seized, and shall give a notice in writing in the form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said premises, that the said goods and chattels will be appraised and sold in manner therein mentioned. And the said Officer shall file in the Court of Requests, from which the warrant issued, true copies of the said inventory and notice: Provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of such Court to discharge or suspend such warrant, and it shall be lawful for such Commissioner to discharge or suspend such warrant accordingly, with or without costs: Provided that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

Sale of goods and chattels.

V. In default of such application, it shall be lawful for any two of such Officers of such Court, at the expiration of five days from such seizure, to appraise the goods and chattels so seized, and to give notice in writing in the form in the Schedule to this Act annexed (marked E) of the sale thereof, at such time and place as they shall direct, after an interval of not less than two days; and they shall file in such Court a true copy of the said notice, and that the same shall be sold accordingly, and the said Officers shall forthwith, after realization of the produce of the said sale,

pay over the amount thereof to the Chief Clerk of the said Court, or other Head Officer of such Court, and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due: Provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

Costs of distress.

VI. No costs shall be taken or demanded for such distress, except those contained in the Schedule to this Act annexed (marked C), and it shall be lawful for the said Commissioners of the Court out of which such distress is issued, with the sanction of the Governor of the said Settlement, to apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers, as shall appear to the said Commissioners expedient, and the Chief Clerk or other Head Officer of the said Court shall keep a book, in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distresses shall be duly entered, and the Chief Clerk or other Officer, as aforesaid, of the said Court, shall also enter in the said book all sums realized by sale of the goods and chattels distrained and paid over to the landlords, under the provisions of this Act.

No distress for arrears of rent amounting to fifty dollars except under this Act.

VII. After the passing of this Act, no distress shall be levied for arrears of rent amounting to fifty dollars or less, except under the provisions of this Act; and any person, except such Officer as shall be appointed under this Act, levying or attempting to levy any such distress, shall be guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment for the same, in addition to any other liability he may have incurred by such trespass.

Penalty.

VIII. This Act shall not extend to any arrears of rent exceeding fifty dollars, nor in respect of any house or premises situate out of the local jurisdiction of any such Court, nor to any rent due to Government, nor to any seizure, except on the premises in respect of which such rent is claimed.

Act not to apply to rent due to Government.

IX. A seal shall be made for every Court of Requests in the said Settlement under the direction of the Governor of the said Settlement, and all summonses and other process issuing out of any such Court shall be sealed or stamped with the seal of the Court; and every person who shall forge the seal or any process of any such Court, or who shall serve or enforce any such forged process knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of such Court, knowing the same to be false, or who shall act or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

Seal of Court.

X. Every person who shall give evidence in any Court of Requests in the said Settlement shall be examined on oath, or when exempt by law from taking an oath, on solemn affirmation; and every person who, in any examination upon oath or solemn affirmation under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

Mode of examining witnesses.

XI. Either of the parties to a suit or any other proceeding in any Court of Requests in the said Settlement may obtain, at the Office of the Clerk of such Court or other Officer as aforesaid, summonses to witnesses, with or without a clause requiring the production of books, deeds, papers, and writings in their possession or control, and in any such summons any number of names may be inserted.

Summonses to witnesses.

XII. Every person on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice of the Court of Requests out of which

Penalty for witness not appearing, &c.

such summons shall issue, and who shall refuse or neglect, without sufficient cause, to appear or to produce any books, papers, or writings required by such summons to be produced, and also every person present in any such Court, who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding fifty dollars, as the Commissioners of such Court shall impose on him; and the whole or any part of such fine, in the discretion of the Commissioners after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

Issue of warrant for arrest of defendant evading process or concealing property.

XIII. The Commissioners of any Court of Requests in the said Settlement, in all suits where the debt or demand exceeds the sum of fifteen dollars, upon proof before them that any defendant against whom a summons has been taken out conceals himself, from, or otherwise evades process of, such Court, or is disposing of his property and effects, with intent to defraud the plaintiff or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of such Court, may issue a warrant for the apprehension of such person, and may commit him to gaol, until he shall find security for his appearance in such Court, from time to time, until judgment shall be pronounced in the suit commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

Enforcement of fines.

XIV. Payment of any fine imposed by any Court of Requests under the authority of this Act may be enforced upon the order of the Commissioners of such Court in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

Execution may issue either against person or property of debtor.

XV. Whenever any Court of Requests in the said Settlement shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed, by execution against the body or the goods and

chattels of the person against whom such order is made, without further notice or order, and the Clerk of the said Court or other Officer as aforesaid, at the request of the person prosecuting such order, shall issue under the seal of the Court a writ of execution to one of the Bailiffs of such Court, which shall be his warrant to take the body of such person in execution, or to levy, or cause to be levied by distress and sale of the goods and chattels of such person, such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all Constables and other Peace Officers within their several jurisdictions shall aid in the execution of every such writ.

In case of order to pay by instalments, execution to issue on default of payment, without further notice.

XVI. If any such Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as such Court shall order, either at the time of making the original order, or at any subsequent time, under the seal of the Court.

Warrants in execution against the body.

XVII. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the Bailiffs of the Court of Requests out of which such warrant shall issue, shall be empowered, by virtue thereof, to take and convey him to any prison appointed by the Governor of the Settlement to be the prison of such Court, there to remain for such term as shall be directed by the warrant not longer than six calendar months, or until he shall sooner perform the order of such Court.

No person to be twice imprisoned, nor execution against body and goods to issue at the same time under same judgment.

XVIII. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and goods issue at the same time under the same judgment.

Warrants in execution against goods.

XIX. Every Bailiff executing any process of execution issuing out of any such Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade), and may also seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

Penalty for contempts of Court.

XX. If any person shall wilfully insult any Commissioner, Clerk, or Officer of any such Court, for the time being, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of any such Court, or otherwise misbehave in any such Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by the order of a Commissioner of such Court, to take such offender into custody, and detain him until the rising of such Court; and the Commissioners shall be empowered, if they shall think fit, by a warrant under their hands and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding twenty-five dollars for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid, for any time not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act, may cause the offender to be indicted in the Court of Judicature if the offence be an indictable misdemeanor.

Penalty for assaulting Bailiff, &c., in execution of duty.

XXI. If any Officer or Bailiff of any such Court shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested or goods levied under process of any such Court, the person so offending shall be liable to a fine not exceeding fifty

dollars, to be recovered by order of such Court, or before a Magistrate, and the Bailiff of the Court, or any Peace Officer in any such case, may take the offender into custody (with or without warrant) and bring him before such Court or Magistrate accordingly.

Penalty for Bailiff neglecting, &c., to execute warrant.

XXII. If any Bailiff of any such Court, who shall be employed to execute any warrant of any such Court, shall, by neglect, or connivance, or omission, loses an opportunity of executing such warrant, then, upon complaint of the party aggrieved by reason of such neglect, connivance, or omission (and the fact alleged being proved to the satisfaction of the Court), the Commissioners of such Court shall order the Bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution is issued, and the Bailiff shall be liable thereto, and upon demand made therefore, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original warrant.

Penalty for misconduct on part of Clerk, Bailiff, &c.

XXIII. If any Clerk, Bailiff, or other Officer of any such Court, acting under colour or pretence of the process of the said Court, shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Commissioners of such Court may enquire into such matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and may make such order thereupon for the repayment of any money extorted or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs, as they shall think just, and also if they shall think fit, may impose such fine upon the Clerk, Bailiff, or Officer, not exceeding fifty dollars for each offence, as they shall deem adequate, and in default of payment

of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

Penalty for Clerk, &c., taking bribe.

XXIV. Every Clerk, Bailiff, or other Officer employed in putting any of the powers of this Act in execution, who shall wilfully and corruptly exact, take or accept any fee or reward whatsoever, other than his lawful salary, for any thing done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, shall, upon proof thereof before the Court in which such Clerk, Bailiff, or Officer is employed, and, in the case of a Clerk, on confirmation of the finding of the Court by the Governor of the said Settlement, be for ever incapable of serving or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

Provision for cases of erroneous execution of process.

XXV. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of any Court of Requests under this Act, or in respect of the proceeds or value thereof, by any person not being the party against whom such process has issued, the Clerk of such Court or other Officer as aforesaid, upon application of the Officer charged with the execution of such process, as well before as after any action brought against such Officer, may issue a summons, calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in the Court of Judicature in respect of such claim shall be stayed, and the Judge of the Court of Judicature, on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action, after the issue of such summons out of such Court of Requests; and the Commissioners of such Court of Requests shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit,

and such order shall be enforced in like manner as any order made in any suit brought in such Court.

Limit of damages in actions against Clerk, &c.

XXVI. If any person shall bring any suit in any Court of Judicature in the said Settlement in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court of Requests within the jurisdiction of such Court of Judicature under colour or pretence of the process of the said Court of Requests, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of two hundred and fifty dollars, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the record, that the action was fit to be brought in the Court of Judicature.

Form of conviction.

XXVII. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following (that is to say), Be it remembered that on this day of in the year *A B* is convicted before a Magistrate for the or before a Commissioner acting under Act No. XXIX of 1866 of having (*state the offence*) and I (*or we*) the said do adjudge the said to forfeit and pay for the same the sum of [*or* to be committed to for the space of] Given under hand ( ) and seal ( ) the day and year aforesaid.

No order, &c., to be quashed for want of form.

XXVIII. No order, verdict of judgment, or other proceeding, made concerning the matters aforesaid, shall be quashed or vacated for want of form.

Distress not unlawful on account of defect or informality.

XXIX. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant of distress or

other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

Limitation of actions.

XXX. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action is brought, or if after action brought a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

SCHEDULE.

A.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF WARRANT.

I hereby direct you to distrain the goods and chattels on the premises of A B, situate in in the for the sum of dollars, being the amount of months' rent due to C D for the same on the day of last, according to the provisions of the Act No. XXIX of 1866. Dated *first* day of *May*.

(Signed and Sealed)

To

E F.

Sworn Bailiff and Appraiser.

B.

In the Court of Requests in and for the Station of (as the case may be).

FORM OF INVENTORY AND NOTICE.

(State particulars of goods seized.)

Take notice that I have this day seized the goods and chattels contained in the above inventory for the sum of dollars, being the amount of months' rent due to C D at last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold, pursuant to the provisions of the Act No. XXIX of 1866.

(Signed) E. F.,
Sworn Bailiff and Appraiser.

To
A. B.

C.

In the Court of Requests in and for the Station of

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.

SUMS SUED FOR	Affidavit, Warrant to distrain, Notices, &c.	Order to sell.	Commission.	Total.	REMARKS.
	Dol. Ct.	Dol. Ct.	Dol. Ct.	Dol. Ct.	
1 and under 10 dollars	0—50	Twenty-five cents.	Five per cent.		
10 „ „ 20 „	1—00				
20 „ „ 30 „	1—50				
30 „ „ 40 „	2—00				
40 „ „ 50 „	3—00				

The above scale is intended to include all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses

have to be subpœnaed, in which case each subpœna for sums under twenty dollars must be paid for at twenty cents, and each subpœna for sums equal to or more than twenty dollars must be paid for at thirty cents. Where watchmen were kept in charge of property distrained, twenty cents per day must be paid per man.

D.

In the Court of Requests in and for the Station of (as the case may be).

A B (Plaintiff)

versus

C D (Defendant).

A B, inhabitant of in the Station of maketh oath and saith, that C D, who is also an inhabitant of the town of is justly indebted to in the sum of dollars for arrears of rent of the house and premises No. situated at in the Station of due for month, to wit, from to at the rate of dollars per mensem.

Sworn before me the day of 18 .

Commissioner.

E.

In the Court of Requests in and for the Station of (as the case may be).

Take notice that we have appraised the goods and chattels seized on the under the provisions of the Act No. XXIX of 1866, of which a Notice and Inventory had been duly served upon you under date the , and that the said goods and chattels will be sold on the at pursuant to the provisions of the said Act.

(Signed) E F.

" G H.

Sworn Bailiffs and Appraisers.

To

A B.

STRAITS' SETTLEMENT'S EXCISE REVENUE.

ACT No. XXX OF 1866.

(Received the assent of the Governor-General on the 24th October 1866.)

An Act for amending the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs in the Settlement of Prince of Wales' Island, Singapore and Malacca.

Recites the expediency of amending the Excise Laws as to Opium, Chandoo, Spirituous Liquors, Toddy, and Bhang.

1. Repeals Act XIV, 1851, and extends to this Act the reference made to that Act in Act XIII, 1856, Section 53.

2—5. Makes all Opium, Chandoo, and Opium Dross, all Spirituous Liquors, and Toddy and Bhang, used or consumed in the Straits' Stations, liable to duty except as excepted; and (3) vests in persons licensed by Government the exclusive right of making or preparing those articles, such persons (4) to be designated according to their license OPIUM FARMER, &c., who (5) shall not use his exclusive right, until he has complied with specified conditions.

Farms of Opium. 6—14.

6. Establishes Regulations on the Import of Opium, requiring a Permit to remove, and forms to be used on Export; and (Clause 2) restricts Imports and Exports of Opium to certain specified places; and Clause (3) requires that Imports of less than a chest shall be lodged in specified places; all which Regulations (by Clause 4) are protected by a specified penalty.

7. Entitles Opium Farmer to inspect Register and have certified extracts, which shall be evidence.

8. Authorizes Justice of the Peace, after confirmation on oath, to issue search warrant for Opium under specified circumstances.

9. Provides penalty and forfeiture against persons other than the Opium Farmer making Chandoo, or importing it, or selling it, or having it in possession, not being licensed, or not having purchased it from Opium Farmer.

10. Provides penalty and forfeiture against persons other than the Opium Farmer selling, or buying, or receiving, or having in his possession Raw Opium less than a chest contrary to the provisions of this Act.

11—14. Establishes Regulations as to of Opium, Chandoo, Opium Dross, or Raw Opium arriving in Ship in less than one chest; and (12) for export of Opium in less than one chest, and (13) makes it penal after obtaining Permit to export, not to put it on boardship, &c.; and (14) saves from these Regulations Opium for sale for medicinal purposes.

Farm of Spirituous Liquors. 15—28.

15—19. Regulates the importation of Spirituous Liquors and the landing thereof; and (16) the landing and storing; and (17) the removal from the place of Import and payment of duty: and (18) the Export of Spirits; and (19) the removal of Spirits from one place to another.

20. Provides a penalty for the offence of landing, exporting, or removing Spirits contrary to the Regulations.

21. Provides a remedy in case of refusal of the Spirit Farmer to grant his Permit for exportation or removal of Spirits.

22. Obliges Spirit Farmer to grant receipt in prescribed form for duty received under this Act.

23. Authorizes issue of search warrant by Justice of the Peace on information of Spirit Farmer of removal of Spirits without payment of duty.

24—25. Regulates the licensing of Sugar manufactories for making, distilling, rectifying, or compounding Spirituous Liquors; and (25) the exportation of same from manufactory.

26—28. Provides a penalty for illicit distillation, &c.; and (27) for illicit dealings in Spirits; and (28) exempts from operation of Act Spirits imported, &c., on account of Her Majesty's Government.

Farm of Toddy and Bhang. 29—32.

29—30. Requires the owner, renter, or occupier of lands producing Toddy or Bhang, to register the same with specified particulars; and (30) authorizes Justice of the Peace to issue search warrant on information that Toddy or Bhang are produced on lands, &c., not registered, and provides a penalty on conviction of the offence.

31—32. Gives the Toddy Farmer the exclusive right of importing and exporting Bhang and Toddy, except such as on importation may be offered to him; and (32) provides a penalty for dealing in Toddy or Bhang without a license.

Places of Public Entertainment where Spirituous Liquors are sold or used on the Premises. 33.

33. Directs the registration of all such places as are licensed, &c., and the tax to be paid for the license.

Licensed Shops for sale of Excisable Articles. 34—44.

34—36. Requires that all such shops shall be registered and licensed, and be under Rules framed (35) by the Commissioner of Police, who (36) may cancel license.

37. Provides a penalty on licensed shop-keeper permitting gambling, or armed persons in his shop.

38—42. Provides a penalty on licensed keeper of Opium, Spirit, or Toddy shop having Opium, &c., not purchased from Farmer; and (39)

prohibits subject to a penalty all sale of those articles, except for current coin; and (40) payment of wages of servant or laborer in those articles; and (41) sale to European or Native soldiers without authority in writing from the Commanding Officer of such soldier; and (42) the sale of Spirits or Toddy adulterated, &c., so as to be injurious to health.

43—44. Subjects Farmer to a penalty for compounding for any breach of provisions of this Act; and (44) prohibits outgoing Farmer selling excisable articles on approach of end of his term for sale by purchaser after specified time.

License and Permit Fees. 45.

45. Directs that all fees for registering licenses under this Act, and for Permits shall be paid to the respective Farmers; and all fines to the Municipal Fund.

Revenue Officers. 46—49.

46—47. Warrant Officers of specified class and the Police Force alone to be Revenue Officers, &c.; who (47) shall have a badge and uniform, and declare his office before acting against any person.

48—49. Imposes penalty for assaulting or beating Police or Revenue Officer; and (49) for Police or Revenue Officer extorting or taking bribe, &c.

Procedure. 50—63.

50—51. Empowers Justice of the Peace to issue search warrant, and establishes Regulations for its execution; and (51) empowers Police and Revenue Officers to arrest and take before Justice of the Peace on reasonable and probable cause, to believe he has concealed on his person any article subject to forfeiture, and directs subsequent proceeding.

52. Authorizes Justice of the Peace to proceed *ex parte* on default of appearance of person charged.

53. Authorizes Local Government to annul, &c., orders, &c., and refund fine, and restore articles forfeited.

54. Authorizes recovery of penalties by distress warrant, and in default of distress, &c., commitment and imprisonment, with or without hard labor, &c., and on specified case, to issue warrant of commitment without previous distress warrant.

55. Convictions not to be quashed for want of form, nor warrant of commitment of it, stating the offence and punishment.

56—58. Gives an appeal under specified conditions from order of Justice to Court of Judicature, &c.; such appeal (57) to be entered on Civil Side of the Court, and disposed of according to usual course of practice, &c.; and (58) trial to be on the merits.

59—60. Limits actions, &c., for any thing done under the provisions of this Act to within three months after act done; and requires notice of

action; and action to lie only for act done maliciously and without reasonable or probable cause; and (60) allows plea of the general issue, &c., and regulates the judgment for costs.

61. Exempts Permits and Licenses under this Act from stamp duties.

62. Provides a penalty for counterfeiting, erasing, altering, or falsifying License or Permit, or altering or publishing such counterfeit, &c.

63. Declares the Schedules annexed to Act to be part of Act, &c.

Interpretation of Words.

64. Interprets the terms Local Government, Settlement, Section, Court of Judicature, Opium, Chandoo, Chandoo Dross, Spirituous Liquors, Toddy, Bhang, Importer, Chest of Opium, Ship, and words of Number and Gender.

65. Names the Act The Straits' Excise Act 1866.

Preamble.

WHEREAS it is expedient to amend the laws for the collection of a Revenue of Excise upon Opium, Chandoo, Spirituous Liquors, Toddy and Bhang, and the granting of Excise Licences for the sale of the said articles by retail within the Settlement of Prince of Wales' Island, Singapore and Malacca; It is enacted as follows:—

Repeal of Act XIV of 1851.

I. Act No. XIV of 1851 (*for consolidating the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs, in the Settlement of Prince of Wales' Island, Singapore and Malacca*), is hereby repealed, except in so far as that Act repeals any other Regulations or Acts, and except as to acts done, offences committed and liabilities incurred before the passing of this Act. Section 58 of Act No. XIII of 1856 (*for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca*), shall be read as if the reference therein made to the said Act No. XIV of 1851 were made to this Act.

Duties imposed.

II. All Opium, Chandoo and Opium Dross, and all Spirituous Liquors, and all Toddy and Bhang shall, except as is hereinafter provided, be liable to a duty when used or consumed in any of the Stations of the said Settlement.

Exclusive rights.

III. The exclusive right of making or preparing Chandoo or Opium Dross, and of retailing Chandoo or Opium Dross, or Opium in smaller quan-

ties than one chest; and the exclusive right of retailing Spirituous Liquors, and of making and distilling Spirituous Liquors; and the exclusive right of selling Toddy and Bhang, within the Settlement of Prince of Wales' Island, Singapore and Malacca, shall be vested from time to time in such persons as the Local Government may license for that purpose, either by public or private sale of such exclusive rights, and on such conditions as may be proper to secure the due payment of the rents and revenues of the said farms, and to provide equitable arrangements for the transfer of the stocks of machinery and exciseable articles in the possession of any farmer, at the end of his term of exclusive privilege to the next succeeding farmer.

Farmer's name.

IV. Any person in whom the exclusive right of making or preparing Chandoo or Opium Dross, and of retailing Opium in smaller quantities than one chest shall be vested, shall be called the "*Opium Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be; and the person on whom the exclusive right of retailing Spirituous Liquors, and of making and distilling and compounding Spirituous Liquors shall be vested, shall be called the "*Spirit Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be; and the person in whom the exclusive right of selling Toddy and Bhang shall be vested, shall be called the "*Toddy Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be.

Farmers to sign contract,

V. No person in whom such exclusive right may be vested, shall use such right until after he shall have entered into a contract in writing with the Local Government, binding himself to adhere to the terms of such contract, and to the provisions of this Act; and the several farmers shall give such security as may seem to the Local Government to be sufficient for the due fulfilment of their contracts, by deposit of money or valuable securities, or by mortgage of real or personal property or otherwise: And it shall be lawful for the Local Government to sell,

and give security, &c.

Government may dispose of securities, &c.

dispose of and realize all such property mortgaged, pledged or deposited, without action, suit or other legal procedure for judgment or decree, in any Court of Justice, and to apply the same or the proceeds of sale thereof, or so much thereof as may be required, to liquidate any penalties, forfeitures, damages or losses which may arise or exist against the said farmers at the end of their several terms, before surrendering to them their securities, or making over to them the monies and valuable securities so deposited: Provided that no such penalties, forfeitures, damages or losses shall be chargeable against any farmer under this Act till the same shall have been sanctioned, in writing, by the chief Civil Authority in the said Settlement. Such contract and mortgage may be in the form of Schedule A to this Act annexed or to the like effect.

summarily.

and apply same to defalcations, &c.

Proviso.

Form of contract and of mortgage.

Farm of Opium.

VI. *Clause* 1.—Every person importing into any of the said Stations any Opium, shall, before landing such Opium, or any part thereof, deliver or cause to be delivered to the Registrar of Imports and Exports of the Station, a Bill in form of Schedule B to this Act annexed or to the like effect specifying the quantity and description of Opium, the name of the ship, the time of landing, and the place where the said Opium is intended to be stored: whereupon the Registrar of Imports and Exports or his Deputy shall furnish a permit, without fee, in form of Schedule C to this Act annexed or to the like effect, authorizing the Opium to be landed and stored, in terms of the Bill of specification; and no Opium so stored shall be removed without a permit from the Registrar of Imports and Exports, who shall grant such permit on the application, in writing, in form of Schedule D to this Act annexed or to the like effect, of the owner or his agent, desiring to remove the same, and stating the

Import of Opium.

Bill of specifications.

Permit by Registrar of Imports and Exports to land Opium.

Permit to remove.

place to which it is to be transferred: and before exporting any Opium from any of the said Stations, the intending exporter shall furnish to the Registrar of Imports and Exports of the Station, a Bill in form of Schedule E to this Act annexed or to the like effect, specifying the quantity and description of Opium to be exported, and the name of the ship, and the place to which the same is to be exported, whereupon the Registrar of Imports and Exports or his Deputy shall furnish, without fee, to the intending exporter, a permit in form of Schedule F to this Act annexed or to the like effect, authorizing the said Opium to be exported.

Export of Opium.

Permit to export.

Clause 2.—And it shall not be lawful for any person to import or bring into any of the said Stations, or to export or take out from any of the Stations any Opium except to or from the principal ports of such Station, and within the limits of the said several ports, as laid down under Act No. XXII of 1855 (*for the regulation of Ports and Port Dues*), or any other Act to the like effect to be hereafter passed.

Confined to principal ports.

Clause 3.—Any Opium in smaller quantities than one chest, imported into any of the said Stations, shall be lodged in the office of the Registrar of Imports and Exports subject to the rules laid down in Section 11 of this Act, and shall not be taken therefrom except for exportation or sale to the Opium Farmer of the Station, as is hereinafter provided.

Opium less than one chest.

Clause 4.—Any person offending against any of the provisions of this Section, shall be liable on conviction to a penalty not exceeding five hundred dollars; and any Opium so imported or exported, or stored or moved, or attempted to be imported or exported, or stored or moved, contrary to the provisions of this Section, with the packages and vessels in which it is contained, shall be seized and forfeited.

Penalty.

Forfeiture.

VII. The Opium Farmer shall be entitled to inspect and take extracts from the Registry of Imports and Exports, and the production of a copy

Inspection of Register.

of any extracts from the said Registry, certified under the hand and seal of the Registrar of Imports and Exports of the Station or his Deputy, shall, on the trial of any person charged with an offence under this Act, in any Court of Justice within the said Settlement, be proof of the facts set out in the said extracts, till the contrary be shown by or for the person so charged, and the omission of entries in the said book shall be proof, till the contrary is shown in like manner, that application has not been made for the permit required.

Certified extracts of Register, evidence.

Omission of entries.

VIII. Any Justice of the Peace at any of the said Stations, on information on oath lodged before him by the Opium Farmer of the Station or his agent, that there is reason to believe that any Opium has been imported into the said Settlement contrary to the provisions of this Act, or that any Opium imported into and stored in the Station has been removed without a permit, as hereinbefore required, from the place in which such Opium was stored, may issue his warrant in the form of Schedule G to this Act annexed or to the like effect to enter and search any place, and if any Opium is found to have been so imported or to be missing from the place in which it was permitted to be stored, the person in whose possession such Opium may be found or in whose name such Opium shall have been so stored, shall be liable on conviction to a penalty not exceeding five hundred dollars for every chest of Opium which shall be found to have been so imported or so removed contrary to the provisions of this Act.

Search warrant for Opium.

Information.

Penalty.

IX. Every person, other than the Opium Farmer of the Station, who shall make or prepare Chandoo or Opium Dross within the local limits of the jurisdiction of the Court of Judicature of the said Settlement, or who shall import thereinto any Chandoo or Opium Dross except as is hereinafter provided by Section 11 of this Act, or who shall therein sell or offer for sale, or permit to be sold or offered for sale, or who shall purchase, or

Making Chandoo.

Importing Chandoo.

Selling Chandoo.

Having in possession Chandoo.

who shall knowingly have in or receive into his possession or control, any Chandoo or Opium Dross, or Opium in less quantities than one chest, not purchased from the Opium Farmer of the then current year or a licensed Opium shop-keeper of the Station of the then current year, the onus of proof of which purchase shall rest with the person in whose possession or control the said Chandoo or Opium Dross or Opium may be found, shall be liable on conviction, for the first offence, to a penalty not exceeding one hundred dollars; for the second offence a penalty not exceeding two hundred dollars; and for every subsequent offence a penalty not exceeding four hundred dollars; and all such contraband Chandoo or Opium Dross, and the vessels containing the same, shall be forfeited, and all utensils and vessels which have been used or which are plainly intended to be used in preparing Chandoo and Opium Dross shall be seized and forfeited.

Proof.

Penalty.

Forfeiture.

X. Every person, other than the Opium Farmer of the Station, who shall sell or offer for sale, and every person who shall buy from any person other than the Opium Farmer of the then current year, or who shall knowingly receive or have in his possession contrary to the provisions of this Act any quantity of raw Opium less than one chest, shall be liable on conviction, for the first offence to a penalty not exceeding one hundred dollars; for the second offence a penalty not exceeding two hundred dollars; and for every subsequent offence a penalty not exceeding four hundred dollars; and all such Opium with the packages or vessels in which the same is contained, shall be seized and forfeited: Provided that nothing herein contained shall be held to prevent the sale of raw Opium for exportation under the provisions of Section 12 of this Act.

Raw Opium, selling or buying.

Having in possession.

Penalty.

Forfeiture.

Proviso.

XI. Every person arriving in any ship at any of the said Stations, who may have on board any Chandoo, or any Opium Dross, or any raw

Raw Opium or Chandoo arriving.

Opium in less quantity than one chest, shall, within twenty-four hours after such vessel shall have come to anchor, give notice in writing thereof to the Registrar of Imports and Exports in the form of Schedule B to this Act annexed or to the like effect, and shall apply to the said Registrar for a permit to land the said Opium or Chandoo or Opium Dross; and the said Registrar or his Deputy shall forthwith issue a permit, without fee, in form of Schedule C to this Act annexed or to the like effect; whereon the person receiving the permit shall forthwith, and before landing any of the said Opium, Chandoo or Opium Dross, furnish a copy of the said permit to the Opium Farmer of the Station; when the said Opium, Chandoo and Opium Dross shall be forthwith landed and deposited in the office of the said Registrar, where it shall remain until exported or sold to the Opium Farmer: and when it is desired to export the same, the owner or his agent shall apply, in writing, in form of Schedule E to this Act annexed or to the like effect, to the said Registrar for a permit to export; when the said Registrar or his Deputy shall issue his permit, without fee in the form of Schedule F to this Act annexed or to the like effect, authorizing the export; and the person receiving the said permit shall forthwith, and before the removal of any of the said Opium, Chandoo or Opium Dross, furnish a copy of the said permit to the Opium Farmer of the Station, and shall at once thereafter proceed to remove the said Opium, Chandoo or Opium Dross from the said office to the ship in which it is to be exported: Provided always, that no such permit for exportation shall be granted till the person applying for the same shall have produced the port clearance for the ship in which it is intended to export the said Opium, Chandoo or Opium Dross: and provided further, that the permits for landing and for exporting such Opium, Chandoo and

Notice to land.

Permit to land.

Notice to Farmer.

Deposit.

Permit to export.

Notice to farmer.

Proviso.

Port clearance.

Specifications in permits.

Opium Dross shall specify the name of the ship, the name of the owner of the Opium, Chandoo and Opium Dross, the quantity and description of the same, and the vessels or utensils containing the same, and the time of intended landing or removal from the said office; and any person committing a breach of any of the provisions of this Section shall, on conviction thereof, be liable to a penalty not exceeding two hundred dollars, and the Opium, Chandoo or Opium Dross shall be seized and forfeited.

Penalty.

Forfeiture.

XII. Every person who shall be desirous of exporting or of selling for exportation raw Opium in any quantity less than one chest, shall deposit a chest containing the customary quantity in the office of the Registrar of Imports and Exports; and whenever such person shall apply for any portion of such Opium to be delivered to him or to any purchaser thereof for exportation, he shall deliver to the Registrar of Imports and Exports or his Deputy a written Bill of particulars in form of Schedule E to this Act annexed or to the like effect, expressing the quantity of Opium that is to be exported, and the name of the person who is about to export the same, and of the ship, and of the master, and of the place to which the same is to be exported, and the time of removal, and having also, in case the Opium mentioned therein is to be sold for exportation, the name of the purchaser written thereon; and the said Registrar or his Deputy shall thereupon cause the quantity of Opium specified in the Bill of particulars to be taken out of such chest and delivered to the person who is to export the same, and shall deliver to such person, without fee, a permit in form of Schedule F to this Act annexed or to the like effect: and the said Opium shall be exported in terms of the said permit, and such chest shall remain, in the custody of the said Registrar or his Deputy, until all the Opium contained therein shall have been exported or sold,

Export of Opium less than one chest.

One chest to be deposited.

Bill of particulars.

Delivery by Registrar.

Permit to export.

Chest emptied.

Proviso.

when the chest shall be destroyed: Provided that no such Opium shall be removed from the said office till the person desirous of exporting the same shall have furnished to the Opium Farmer of the Station a copy of the said permit, and till after the port clearance for the ship in which the same is intended to be exported shall have been produced to the said Registrar or his Deputy; and every person who shall commit a breach of any of the provisions contained in this Section, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Notice to farmer.

Port clearance.

Penalty.

XIII. Every person who shall receive any such permit as aforesaid for the exportation of any quantity of Opium less than one chest, and who shall not, upon receiving the same, within the time named therein, cause such Opium to be conveyed to and placed on board of the vessel mentioned in such permit, shall be liable on conviction to a penalty not exceeding two hundred dollars, and the Opium and the vessels and conveyances in which it is contained shall be seized and forfeited.

Not exporting.

Penalty.

Forfeiture.

XIV. The foregoing provisions of this Act shall not apply to the sale of Opium for medicinal purposes by recognized Medical Practitioners, Chemists and Druggists.

Exemption.

Farm of Spirituous Liquors.

XV. *Clause* 1.—Every person importing into any of the said Stations any Spirituous Liquors shall, before landing the same or any part thereof, deliver or cause to be delivered to the Registrar of Imports and Exports of the Station or his Deputy, a Bill in form of Schedule B to this Act annexed or to the like effect, specifying the quantity and description of such Spirituous Liquors, the name of the ship, and the place where the same is intended to be stored, and the time

Import of spirits.

Bill of specifications.

when it is intended to be landed; whereupon the Registrar of Imports and Exports or his Deputy shall furnish, without fee, a permit in the form of Schedule C annexed to this Act or to the like effect, authorizing the Spirituous Liquors to be landed and stored in terms of the Bill of specifications, which permit shall include all the particulars required in the Bill of specifications: Provided always, that if the said Spirituous Liquors or any portion thereof are intended for use or consumption in the premises of the importer, where they may be stored on importation, he shall before receiving the permit make a declaration in the form of Schedule I to this Act annexed or to the like effect, signed by him to that effect, and shall pay to the Spirit Farmer for the quantity so intended to be used or consumed the duty leviable under this Act.

Permit to land.

Proviso.

Use on premises.

Payment of duty.

Clause 2.—When the permit for landing is received by the importer, he shall forthwith, and before landing or removing the Spirituous Liquors or any portion thereof, furnish to the Spirit Farmer of the Station a copy of the said permit, and the Spirituous Liquors shall be landed and stored in terms of the landing permit: any person offending against any of the provisions of this Section shall be liable on conviction to a penalty not exceeding five hundred dollars, and the Spirituous Liquors shall be seized and forfeited.

Landing spirits.

Notice to farmer.

Penalty.

XVI. Whenever any ship shall arrive at any of the said Stations, having on board Spirituous Liquors not entered on the ship's manifest, and not forming part of the ship's stores or provisions placed on board by the owner, charterer or other person, for the use of the officers, passengers and crew of such ship, the master, supercargo or other person having charge or control over such Spirituous Liquors shall, within twenty-four hours after the arrival of any such ship, cause the said Spirituous Liquors to be landed and stored in the office of the Registrar of Imports and Exports,

Spirits on board ships.

to be landed.

in the manner provided by Section 15 of this Act for the landing of Spirituous Liquors, and such Spirituous Liquors shall remain in the said office till the departure of the said ship, when they shall be exported in manner provided by Section 18 of this Act: Provided however that such Spirituous Liquors or any portion thereof may be sold or removed from the said office, subject to the provisions of this Act for the removal, sale and export of Spirituous Liquors and for the payment of duty thereon; any person convicted of an offence contrary to the provisions of this Section shall be liable to a penalty not exceeding two hundred dollars, and such Spirituous Liquors shall be seized and forfeited.

Exporting.

Proviso for sale.

Penalty.

Forfeiture.

XVII. Every importer desirous of removing any Spirituous Liquors from the place where they shall have been stored on importation, shall apply in writing, in form of Schedule K to this Act annexed or to the like effect, to the Spirit Farmer of the Station, stating the quantity and description of the Spirituous Liquors, the time of removal, the place to which they are to be removed, and the person or persons into whose premises they are to pass, and except when the Spirituous Liquors are to be removed for exportation as is next hereinafter provided, shall pay or cause to be paid to the said Spirit Farmer the sum of fifty cents of a dollar for every gallon of such Spirituous Liquors, and if in bottles the sum of fifty cents of a dollar for every four quart bottles or eight pint bottles, and a proportionate sum for any lesser quantity; whereupon the said Spirit Farmer, if the application is made between the hours of six in the morning and six in the evening, shall deliver to such person, without fee, a written permit to remove the same in the form of Schedule L to this Act annexed or to the like effect.

Removal of spirits from place of import storing.

Application to farmer.

Payment of duty.

Permit for removal.

XVIII. Whenever it is intended to export any Spirituous Liquors from any of the said Stations, the intending exporter shall furnish to the Registrar of Imports and Exports of the Station or his Deputy, a Bill in the form of Schedule E to this Act annexed or to the like effect, specifying the quantity and description of the Spirituous Liquors, the owner's name, the name of the ship and of the place to which they are to be exported, and the time of removal; whereupon the Registrar of Imports and Exports or his Deputy shall furnish a permit, without fee, in the form of Schedule F to this Act annexed or to the like effect, containing the particulars above required, authorizing the said Spirituous Liquors to be exported by the said applicant, who shall forthwith and before removing the said Spirituous Liquors supply to the Spirit Farmer of the Station a copy of the said permit. Provided always, that if the quantity of Spirituous Liquors to be exported do not exceed three dozen quart bottles or six dozen pint bottles, it shall not be necessary to apply to the Registrar of Imports and Exports for his permit; but application as hereinbefore provided shall be made to the Spirit Farmer, who in such case shall grant his permit in the form above described without payment of duty for the removal of the said Spirituous Liquors to the ship in which they are to be exported. Provided further, that the Spirit Farmer shall not be required to grant such permit for exportation till the port clearance of the ship in which the Spirituous Liquors are to be exported shall be produced to him; and provided further, that in the event of any person being desirous of exporting Spirituous Liquors on which the farmer's duty has already been paid, on proof of such payment by the person applying, the Spirit Farmer shall refund to the exporter the amount of duty which may have been paid on the

Ex ort of spirits.

Bill of specifications.

Permit to export.

Notice to farmer.

Farmer's permit for three dozen.

Proviso.

Port clearance.

Proviso.

Duty already paid.

Proof.

Refund.

quantity of Spirituous Liquors so to be exported, and shall issue his permit for the exportation thereof; and any person to whom such refund shall have been made neglecting or omitting to cause the said Spirituous Liquors to be exported in terms of the said permit, shall be liable on conviction to a penalty not exceeding five hundred dollars, and the said Spirituous Liquors shall be seized and forfeited.

Not exporting.

Penalty.

Forfeiture.

XIX. Every person except as hereinbefore provided in Section 17 of this Act, desirous of removing Spirituous Liquors from one place to another, or from the possession of one person to that of another person, shall apply in writing in the form of Schedule M to this Act annexed or to the like effect, to the Spirit Farmer of the Station, stating the quantity and description of Spirituous Liquors, the place to and from which they are to be removed, and the person from and to whose possession they are to be removed, and the time of removal; whereupon the said Spirit Farmer shall grant his permit in the form of Schedule N to this Act annexed or to the like effect, without payment of any fee, for the removal: Provided the duty leviable on the said Spirituous Liquors shall have been already paid to the Spirit Farmer of the then current year; the onus of proof of which payment shall rest with the person applying for the permit.

Subsequent removal of spirits.

Application to farmer.

Farmer's permit.

Proviso for duty.

Proof of payment.

XX. Any person convicted of having landed or exported or removed any Spirituous Liquors contrary to the provisions of this Act, shall be liable on conviction to a penalty of one hundred dollars for the first offence; to two hundred dollars for the second offence; and four hundred dollars for the third and every subsequent offence; and the Spirituous Liquors and the vessels in which they are contained shall be seized and forfeited.

Illicit landing, or exporting, or removing spirits.

Penalty.

Forfeiture.

XXI. If the Spirit Farmer shall refuse on application as hereinbefore provided to grant his permit for the exportation or removal of any Spirituous Liquors, the person requiring such permit may apply in writing to any Justice of the Peace, furnishing him with a copy of the application made to the Spirit Farmer, and such Justice of the Peace, on security being given to his satisfaction for the amount of duty leviable under the provisions of this Act on the quantity of Spirituous Liquors intended to be removed, shall issue his order in the form of Schedule O to this Act annexed or to the like effect, under his hand and seal, authorizing the removal of the Spirituous Liquors, and for which order a fee of one dollar shall be paid by the applicant, and if the said Farmer shall thereafter be convicted of an offence under the next succeeding Section of this Act, such fee shall be refunded by the said Farmer.

Farmer refusing permit.

Application to Justice of the Peace.

Security for duty.

Order of Justice of the Peace.

Fee for order.

XXII. The Spirit Farmers at each of the said Stations shall grant their receipt in the form of Schedule P to this Act annexed or to the like effect, for every sum of money received by them as duty under the provisions of this Act, and any Spirit Farmer refusing, without good cause shown, to grant his permit for the exportation or removal of Spirituous Liquors under the provisions of this Act, or refusing to grant his receipt as above required, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Receipts by Farmers.

Refusing permit.

Penalty.

XXIII. Any Justice of the Peace, at any of the said Stations, on information lodged before him on oath by the Spirit Farmer of the Station or his agent, that he has reason to believe that Spirituous Liquors imported into the Station have been removed from the place where the same may have been stored on importation under the provisions of this Act, without payment of duty

Search warrant.

Information on oath.

Warrant.

to the said Spirit Farmer, may issue his warrant in the form of Schedule G to this Act annexed or to the like effect, authorizing the said Spirit Farmer or his agent to enter the place in which such Spirituous Liquors are or shall have been stored and examine the same, and, if it appear that there is any deficiency in the quantity which ought, according to the landing permit of the Registrar of Imports and Exports and the permits granted for the exportation and for the removal of Spirituous Liquors, to be found stored in such place, the person or persons in whose name the landing permit was issued by the Registrar of Imports and Exports or his Deputy may be summoned before any Justice of the Peace of the said Station, and, on proof to his satisfaction that there is a deficiency in the quantity of Spirituous Liquors, such person shall be liable to a penalty not exceeding five hundred dollars, and shall pay to the said Spirit Farmer the duty leviable under the provisions of this Act on the deficiency: Provided always, that such person shall not be held liable for any deficiency arising from leakage or breakage; and provided further, that the Spirit Farmer or his agent in serving such warrant shall be accompanied by a Police Officer of the rank of Inspector at least.

to examine stores.

Deficiency.

Summons.

Penalty.

Duty.

Proviso for leakage, &c.

Proviso.

Service of warrant.

XXIV. From the passing of this Act, whoever being a manufacturer of sugar, or whoever being in charge of a place for the manufacture of sugar, in the said Settlement, shall be desirous of having a distillery at his sugar manufactory for making or distilling, or rectifying or compounding Spirituous Liquors, shall apply in writing to the Commissioner of Police of the Station within which such sugar manufactory is situated for a license; and in such application shall be inserted the name of the applicant, the situation of his manufactory, and the number and size of the stills he is desirous of keeping; and

Sugar distilleries.

License.

the Commissioner of Police shall grant such license renewable every year under his hand and seal to the applicant, on payment of a fee of ten dollars; and such license shall be registered in the Police Office of such Station or place.

Fee.

Registry.

XXV. No licensed distiller shall be at liberty to sell to any person other than the Spirit Farmer of the Station, or to sell, send out of or deliver from his distillery for exportation, any Spirituous Liquors in a less quantity than one hundred and sixty imperial gallons, or, if in bottles, in a less quantity than fifty dozen of quart bottles or one hundred dozen of pint bottles; and every licensed distiller who shall sell, send out or deliver, or permit to be sold, sent out or delivered from his distillery, any Spirituous Liquors (except as aforesaid) shall on conviction for every such offence be liable to a penalty not exceeding one hundred dollars, and such Spirituous Liquors and the vessels in which the same are contained shall be seized and forfeited,

Distiller selling, &c.

Selling, &c., for exportation.

160 gallons.

Penalty.

Forfeiture.

XXVI. Every person, other than the Spirit Farmer or a licensed distiller, who shall make or distil, or rectify or compound any Spirituous Liquors, or shall knowingly keep or have in his possession any still or other utensil or apparatus, or part of such still, utensil or apparatus, for distilling or making, or rectifying or compounding Spirituous Liquors, shall on conviction for every such offence be liable to a penalty not exceeding one hundred dollars; and all such Spirituous Liquors, and every such still or other utensil or apparatus, or portion of such still, utensil or apparatus, shall be seized and forfeited, but nothing contained in this or any other Section of this Act shall be construed to extend to distillations for medicinal or scientific purposes.

Illicit distillation.

Having still in possession.

Distilling.

Penalty.

Forfeiture.

Exemption.

XXVII. Every person, other than the Spirit Farmer or persons duly licensed under the provisions of this Act for the sale of Spirituous Liquors, who, within the said Settlement, shall sell or purchase, except for exportation, any Spirituous Liquors on which the duty leviable under this Act shall not have been paid to the Spirit Farmer, and every person as aforesaid who shall knowingly have in his possession, custody or control, any Spirituous Liquors sold or purchased without such payment of duty, shall be liable on conviction to a penalty not exceeding one hundred dollars for the first offence, and two hundred dollars for the second offence, and four hundred dollars for the third and every subsequent offence; and the Spirituous Liquors with the vessels in which they are contained shall be forfeited: Provided that it shall be incumbent on the person in whose possession any Spirituous Liquor shall be found to show that the duty leviable under this Act has been paid to the Spirit Farmer.

Dealing in spirits illicitly.

Having in possession.

Penalty.

Forfeiture.

Proviso onus of proof.

XXVIII. All Spirituous Liquors imported, landed, removed in or exported from any part of the said Settlement on account of Her Majesty's Government, are exempt from the operation of this Act.

Exemption for Government.

Farm of Toddy and Bhang.

XXIX. Every owner, renter or occupier of lands within the said Settlement, producing Toddy and Bhang, shall cause the said lands to be registered at the office of the Collector of land revenue of the Station, and shall furnish to the said Collector a statement, in writing, describing the locality of the said lands, and containing full particulars as to the number of trees used for producing Toddy, and the extent of ground cultivated with Bhang, and from time to time as alterations take place in the numbers of such trees, and in the extent of ground so cultivated with Bhang, shall report such

Registry of Toddy and Bhang lands.

Particulars.

Registry book.

Inspection of book.

alteration to the said Collector, who shall cause the said particulars to be entered in a book to be kept for that purpose in his office, which book shall at all reasonable times be open to the Toddy Farmer or his agent, without fee in that behalf: and any person convicted of an offence against the provisions of this Section shall be liable to a penalty of one hundred dollars: Provided further that, on the trial of any person charged under this Section, the production of an extract from the said book of registry, signed by the said Collector of land revenue or his Deputy, shall be proof of the facts stated in the said extract till the contrary be shown by the person charged, and the omission of full and correct entries relating to the lands as to which the charge is made shall be proof against the owner, renter or occupier, that such lands have not been so registered.

Penalty.

Proviso for proof.

XXX. Any Justice of the Peace, on the information on oath of the Toddy Farmer of the Station or his agent, that there is good reason to believe that Toddy or Bhang is produced on lands in the said Settlement not duly registered under Section 29 of this Act, may issue his warrant in the form of Schedule G to this Act annexed or to the like effect, authorizing the Toddy Farmer or his agent, accompanied in either case by a Police Officer, to enter in and examine such lands, and the Toddy Farmer may apply to any Justice of the Peace for a summons against the owner, occupier or other person in whose name such lands are registered, to appear at the Police Court at the Station to answer any charge under Section 29 of this Act, and any person so summoned to appear, on being convicted of an offence against Section 29 of this Act, shall be liable to punishment as is provided by the said Section: Provided that such Justice of the Peace may issue his warrant, either before or after the issue of such summons, to compel the appearance of any person charged on the

Search warrant.

to examine lands.

Summons.

Penalty.

Proviso.

information on oath of such Toddy Farmer or his agent, with having committed an offence against Section 29 of this Act.

Import of Toddy and Bhang.

XXXI. No person, other than the Toddy Farmer of the Station, shall import or export any Toddy or Bhang into or from the said Station, except in the case of imports for sale to the Toddy Farmer of the Station: and any Toddy or Bhang imported into any of the Stations shall be at once taken to the principal shop of the Toddy Farmer at the Station and there sold, or delievered to such Toddy Farmer at such price as may be fixed from time to time by the Local Government: Provided always, that if the Toddy Farmer shall refuse to purchase any Toddy or Bhang so imported, the importer shall forthwith export the same: Any person committing a breach of the provisions of this Section shall be liable on conviction to a penalty not exceeding one hundred dollars, and the Toddy or Bhang found with such person shall be seized and forfeited.

Price.

Proviso.

Export again.

Penalty.

Forfeiture.

Dealing in Toddy or Bhang.

XXXII. Every person within the said Settlement who shall sell, or offer for sale, except to the Toddy Farmer of the Station, and every person as aforesaid who shall purchase from any person other than the Toddy Farmer of the Station of the then current year, or from a licensed Toddy Shop-keeper of the then current year, or who shall knowingly have in his possession any Toddy or Bhang, not purchased by him from such Toddy Farmer or registered Toddy Shop-keeper, the burthen of proof of which purchase shall rest on the person charged, shal lbe liable on conviction to a penalty not exceeding one hundred dollars, and all such Toddy or Bhang shall be seized and forfeited.

Having in possession.

Burthen of proof.

Penalty.

Forfeiture.

Places of Public Entertainment where Spirituous Liquors are sold to be used on the Premises.

Hotels, &c.

XXXIII. All Hotels, Inns, Taverns, Eating-Houses, Punch-Houses and other houses of public entertainment in any of the Stations of the

said Settlement, in which it is desired to sell Spirituous Liquors, and which are already licensed under any Act of the Legislative Council of India for regulating such places, shall be registered in a book to be kept for that purpose by the Commissioner of Police of the Station, yearly, in the last ten days of the month of April, or at such other time as may be directed by the Local Government: and such Commissioner of Police shall grant a license in the form of Schedule H to this Act annexed or to the like effect, to the person desirous of opening or keeping such place of public entertainment, authorizing such person to sell by retail Spirituous Liquors under the provisions of this Act, so that the same be used or consumed in the licensed houses in which they may be purchased; and the said licensed houses may be classed by the Commissioner of Police, with the sanction of the Local Government, in three classes according to the importance of the establishment and the quantity of Spirituous Liquors likely to be consumed therein, and for such licenses a fee shall be paid, yearly, as follows: that is to say,—

to be registered.

License.

to sell for consumption on premises.

Three classes.

Fees.

For a 1st Class House			.....	Dollars	100
„	2nd	„	.....	„	75
„	3rd	„	.....	„	50

and any person, after the thirtieth day of April in each year, or such other time as may be fixed by the Local Government for the determination of the Spirit Farmer's privileges, selling Spirituous Liquors in such houses without having first obtained a license for the year, as required by this Section; and any person selling or buying Spirituous Liquors in such houses, and taking the same away from such houses or allowing the same to be so taken away, shall be liable on conviction to a penalty not exceeding fifty dollars, and the said Spirituous Liquors shall be seized and forfeited.

Penalty.

Forfeiture.

Licensed Shops for sale of Exciseable Articles.

XXXIV. All houses or shops for the retail sale of Opium, Chandoo, Spirituous Liquors, Toddy and Bhang, shall be registered in a book to be kept for that purpose by the Commissioner of Police at each of the said Stations, who shall, subject to the sanction of the Local Government, grant to the applicant a license under his hand and seal in form of Schedule Q to this Act annexed or to the like effect, for each shop so to be used, in such numbers and in such situations as he shall, with the sanction of the Local Government, determine: and before granting any such license, the Commissioner of Police or his Deputy shall cause to be read over and explained to the applicant the rules and regulations next hereinafter provided for, and the said applicant shall sign his name or make his mark in the presence of the said Commissioner or his Deputy, in the book in which the said rules and regulations are inscribed, in acknowledgment that the said rules and regulations have been read over and explained to him: and a printed copy of such rules and regulations shall be posted in a conspicuous place in every such licensed shop: and any person opening or keeping a house or shop for such purpose without such license, or committing a breach of such rules and regulations, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Licensed shops to be registered.

Licenses.

Numbers and situations.

Acknowledgment of Keeper.

in book of rules.

Copy of Rules.

Penalty.

XXXV. The Commissioner of Police at each of the said Stations shall, from time to time, with the sanction of the Local Government, draw up and publish rules for the better management of such houses or shops and maintaining order therein, the times for opening and shutting the shops, and the signboards or other distinctive marks to be affixed to such houses or shops; and it shall be lawful at all times for the Commissioners of

Rules to be framed.

Particulars.

Police visits.

Arrest of

Armed persons, Disturbers, Gamblers, Breakers of the Peace.

Penalty.

Fee for license.

Police, their Deputies and all superior Officers of Police to be named by the Commissioners in the rules to be published by them, to enter without warrant any of the said licensed houses or shops purporting to be so licensed, and to arrest and take into custody without warrant any persons found in such houses armed, or making a disturbance, or gambling or committing any breach of the peace: and any person so found armed, or making a disturbance, or gambling or committing a breach of the peace, shall on conviction be liable to a penalty not exceeding fifty dollars. A fee of ten dollars shall be charged for every such license, to be paid by the person applying therefor, together with such reasonable sum as may be sufficient to cover the cost of the signboard or other distinctive mark to be supplied to the said shop-keepers by the Commissioner of Police as aforesaid; such charge to be fixed by the Commissioner of Police with the sanction of the Local Government.

Cost of signboards.

XXXVI. The Commissioner of Police at each of the said Stations, with the sanction of the Local Government, may cancel the license of any person licensed to keep a shop under the provisions of this Act.

Cancelment of license.

XXXVII. Any keeper of a licensed shop under this Act, knowingly permitting gambling to be carried on in his shop, or knowingly permitting armed persons to be in his shop, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Gambling.

Armed persons.

Penalty.

XXXVIII. Every keeper of an Opium shop, Spirit shop, or Toddy shop, licensed under Section 34 of this Act, who shall sell or knowingly have in his possession any Opium, Chandoo, Spirituous Liquors, Toddy or Bhang, which shall not have been purchased from the respective Farmers of the Station,

Exciseable articles not purchased from Farmers.

Proof.

Penalty.

Forfeiture.

proof of which purchase shall rest with the person charged, shall be liable on conviction to a penalty not exceeding one hundred dollars, and the Opium, Chandoo, Spirituous Liquors, Toddy or Bhang shall be forfeited.

Selling, except for coin.

XXXIX. Every Farmer under this Act, and every keeper of any house or shop registered under this Act, who shall sell or exchange Opium, or Chandoo, or Opium Dross, Spirituous Liquors, Toddy or Bhang otherwise than for the coin usually current within the said Settlement, shall forfeit a penalty not exceeding twenty-five dollars.

Penalty.

Exchange for servants' wages.

Penalty.

XL. Every person within the said Settlement, who shall deliver to any servant or labourer any Opium, Chandoo, Opium Dross, Spirituous Liquors, Toddy or Bhang in consideration of wages or hire due to such servant or labourer, shall forfeit a penalty not exceeding fifty dollars.

Sale to soldiers.

Penalty.

XLI. Any Farmer or person licensed under this Act, who shall knowingly sell or deliver to any European or Native soldier any Opium, Chandoo, or Opium Dross, Spirituous Liquors, or Toddy or Bhang, without having an authority in writing from the Commanding Officer of such soldier, shall be liable on conviction to a penalty not exceeding fifty dollars.

Adulterated Spirits or Toddy.

Penalty.

Destruction of articles.

XLII. Any person in the said Settlement selling or offering for sale Spirituous Liquors or Toddy adulterated or compounded in such a manner as to be injurious to health, shall be liable to a penalty not exceeding one hundred dollars, and all such injurious articles shall be destroyed.

Compounding for offences.

XLIII. Any Farmer under this Act who shall, either by himself or by the means of any other person, take from any person who may

have committed or be suspected of having committed a breach of any of the provisions of this Act, any sum of money or any goods or chattels, or other consideration whatsoever, as a compromise, reward or payment for not prosecuting such person for such offence, shall be liable on conviction to a penalty not exceeding two hundred dollars.

Penalty.

XLIV. No Farmer or keeper of a licensed shop for the sale of exciseable articles under this Act, shall sell any exciseable articles near the end of the term of the exclusive privilege of the Farmer, or at any time during such exclusive privilege, so as in either case to authorize the use by the purchaser of such exciseable articles at any time after twelve o'clock at noon of the second day of May of each year, or thirty-six hours after such other time as may be fixed for the termination of the exclusive privilege of the Farmer: and any person found with any exciseable articles in his possession which have not been purchased from the Farmer of the term in which the time of seizure of such articles shall happen to be, except for thirty-six hours after expiry of such term as aforesaid, shall be liable to all penalties and forfeitures to which a person may be liable under this Act, if such articles had not been purchased from a Farmer or licensed shop-keeper.

Sale by outgoing Farmers near end of terms.

Articles found sold contrary to this Section.

Penalties and forfeitures.

License and Permit Fees.

45. All fees received for registering licenses to keep Opium shops under this Act, shall be paid to the Opium Farmer for the time being; and all fees received for registering licenses to keep Spirit shops and distilleries and houses of entertainment registered under this Act for the sale of Spirituous Liquors, and all fees for permits to remove Spirituous Liquors under this Act, shall be paid to the Spirit Farmer for the time being; and all fees received for registering licenses to keep Toddy shops for the sale of Toddy and Bhang under this Act,

Fees for licenses to Farmers.

Fines and penalties.

shall be paid to the Toddy Farmer for the time being: and all fines and penalties whatsoever received under this Act shall, after the adjudication at the discretion of the Justices of the Peace or Magistrate of a portion of such fines and penalties to the informer, be paid into the municipal fund, established under Act No. XXVII of 1856 *(for appointing Municipal Commissioners, and for levying rates and taxes, in the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca)*, or that may be established by any future Act, of the Station at which such fines and penalties shall be imposed, to be applied to the general purposes of the said Act: and all articles subject to restriction under this Act, seized and forfeited, when the same shall not be destroyed as unwholesome, shall be given to the Farmer prosecuting the same.

Informer's share Municipal Fund.

Forfeitures for Farmers.

Revenue Officers.

XLVI. The Commissioner of Police at each of the Stations in the said Settlement may grant his warrant in form of Schedule R to this Act annexed or to the like effect, to such agents or servants of the several Farmers named in this Act as may be approved of by the said Commissioner of Police, with the sanction of the Local Government, to act as Revenue Officers at the Station in which they may be appointed: and no persons except those so appointed, and except the members of the Police Force enrolled under the provisions of Act No. XIII of 1856 *(for regulating the Police of the town of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca)*, or any Act to be hereafter pass to the same effect, shall be competent to act as Revenue Officers under this Act: and such warrants may at all times be withdrawn by the Commissioner of Police, with the sanction of the Local Government, and any per-

Warrant to act.

to approved persons.

Acting without warrant.

Police Officers.

Withdrawing of warrant.

Penalty.

son other than a Police Officer assuming to act as a Revenue Officer under this Act, and not holding such warrant, shall be liable on conviction to a penalty not exceeding fifty dollars. The names and places of residence of every Revenue Officer so appointed shall be posted in a conspicuous place at the Police Courts of the Station.

Names to be posted.

XLVII. Every Revenue Officer appointed under this Act shall be supplied, at the expense of the Farmer requiring his appointment, with a brass plate or staff bearing such sign or mark of office as may be directed by the Commissioner of Police, with the sanction of the Local Government: and before acting against any person under the provisions of this Act, every such Revenue Officer shall declare his office and produce to the person against whom he is about to act his said sign or mark of office. Every Police Officer acting under the provisions of this Act, if not in the uniform proper to his service, shall, in like manner, declare his office and produce to the person against whom he is about to act, such part of his public equipment as the Commissioner of Police shall have directed or may direct to be carried by Police Officers when employed in secret or special service: and any person who shall, after production of such sign or mark or equipment of office, obstruct any such Police or Revenue Officer in the exercise of his duties under this Act shall be liable on conviction to a penalty not exceeding fifty dollars.

Badges for Revenue Officers.

Rules for acting.

Revenue Officers.

Police Officers.

Obstructing Officers.

Penalty.

XLVIII. Any person who as aforesaid shall assault or beat any such Police or Revenue Officer, while so as aforesaid in the execution of his duty under the provisions of this Act, shall be liable on conviction to a penalty not exceeding one hundred dollars: and it shall be lawful for such Officers so resisted to oppose force to force and to execute their office of duty.

Assaulting Officers.

Penalty.

Opposing force to force.

XLIX. Every Police or Revenue Officer who shall extort or attempt to extort, or take from any person, any money or valuable consideration as a bribe under pretence of this Act; and every person who shall offer to any Police or Revenue Officer any such bribe; and every Police or Revenue Officer who shall maliciously and without reasonable ground arrest or detain any person under the provisions of this Act, or who shall not, with the least practicable delay, take any person so arrested before some Justice of the Peace for examination, shall be liable on conviction to a penalty not exceeding fifty dollars.

Extortion.

Bribery.

Malicious charges.

Delay in going before Justice of the Peace.

Penalty.

Procedure.

L. Any Justice of the Peace within the said Settlement may, by his warrant in the form of Schedule S to this Act annexed or to the like effect, directed to any Police Officer within the said Settlement or to any Revenue Officer or Officers appointed in manner hereinbefore mentioned, empower him by day or by night (but if between the hours of six o'clock in the night and six in the following morning, then such warrant to be executed by or in the presence of a Peace Officer), to enter and search any dwelling-house, shop or other building, or place, or any ship lying or being within the local limits of the jurisdiction of the Court of Judicature, in any case in which there shall appear to such Justice of the Peace, upon the oath of any person, good and sufficient cause to believe that, in any such dwelling house, shop or other building, or other place, or on board any ship lying or being within the local limits of the jurisdiction of the said Court, is concealed or deposited any article subject to forfeiture under this Act, and to take possession of any such article found to be concealed or deposited therein, and of all utensils

Search Warrant.

To Police Officer.

To Revenue Officer.

By day-light.

On land.

At sea.

Information.

Contraband articles.

Utensils.

used for preparing Chandoo or plainly intended for such use, and all stills or other apparatus used for distilling Spirituous Liquors, or portions of stills or apparatus plainly intended for such use, and to arrest and take any person or persons being in such a dwelling-house, shop or building, or other place, or on board any ship lying or being within the local limits aforesaid, in whose possession, custody or control any such article may be found, or whom the said Officer or Officers may have good and sufficient reason to suspect to have concealed or deposited therein any such article, and any Officer to whom such warrant shall be directed may, in any case of resistance, break open any outer or inner doors of such dwelling-house, shop or other building, or other place, and enter thereinto, and forcibly enter any ship lying or being within the local limits aforesaid, and remove by force any obstruction to such entry, search, seizure and removal as aforesaid: Provided always, that all informations to be laid, and all warrants to be issued, and all arrests and seizures to be made under this Act, may be had or done on a Sunday as well as any other day.

Arrest on suspicion.

Break open doors.

Entry on ship.

Seizure.

LI. If any person shall be found committing any act in breach of this Act, or if any Peace or Revenue Officer shall have probable cause to believe that any person has concealed upon his person any article subject to forfeiture under this Act, such Peace or Revenue Officer may immediately arrest such person without a warrant, and shall thereupon immediately take such person before some neighbouring Justice of the Peace, who shall determine if there be reasonable grounds of suspicion, and such Justice of the Peace may direct such person to be immediately searched, and such Justice of the Peace, if he sees grounds for believing that an offence has been committed against the provisions of this

Offences on view.

Concealment on person.

Arrest.

Search by Justice of the Peace.

Act, shall thereon admit the person so charged to bail on his recognizance in form of Schedule T to this Act annexed or to the like effect, with such securities as to the said Justice of the Peace shall seem sufficient, to appear before him or some other Justice of the Peace or Magistrate of Police, at a Police Court at the Station, to answer the charge, and if the person so charged shall not give such security for his appearance, such Justice of the Peace shall issue his order in writing in the form of Schedule V to this Act annexed or to the like effect, directing the person so charged before him to be taken to the principal Police lock-up at the Station with any articles subject to forfeiture under this Act, found or said to have been found with such person, and there to be kept till bail be given to the satisfaction of the same or any other Justice of the Peace, for the appearance of such person to stand his trial for the offence charged at a Police Court in the Station, and in the default of such bail to be kept in the said lock-up till the trial of the offence: Provided that no person so kept for want of bail shall be detained for any period exceeding two days: and if any person who shall have entered into recognizance to appear as above, shall not appear as required, the Justice of the Peace or Magistrate before whom he was to have appeared shall, on application, certify such non-appearance on the back of such recognizance, whereupon the sum thereby acknowledged to be due shall be recoverable in the manner provided by this Act for levying penalties.

Bail.

Commitment in default of bail.

Detention.

Proviso, time of detention.

Default of appearance.

Summary procedure.

LII. It shall be lawful for any Justice of the Peace or Magistrate before whom a charge shall be laid against any person for a breach of any of the provisions of this Act, on being satisfied that a summons has been duly served on the person charged to appear to answer the charge, or in case the person charged shall have been admitted to bail to appear, and in either case such person shall not appear according to the exigence of the summons or bail-bond,

Proceeding *ex parte*.

and no sufficient cause shall be shown for such non-appearance, to proceed to the hearing of the charge as if such person charged were present.

Remission of sentences.

53. It shall be lawful for the Local Government to direct the suspension and withdrawal of any charge or proceedings before any Justice of the Peace or Magistrate under this Act, and to cancel and annul and reverse in whole or in part any order, charge, conviction or other proceeding under this Act, and to direct the refund of the whole or any part of any fine or penalty, and the restoration of the whole or any portion of any articles ordered to be forfeited to any person from whom the same may have been taken, and to remit the whole or any part of any sentence of imprisonment passed under this Act.

Conviction.

LIV. All penalties under this Act may be imposed on conviction of the offender, by confessi n of the offender, or by the oath of one or more witnesses before two Justices of the Peace or a Magistrate of Police, at a Police Court in the Station: and in case of non-payment of any penalty imposed or forfeited under this Act, the convicting Justices or Magistrate may issue their warrant of distress in the form of Schedule W to this Act annexed or to the like effect, under their hands and seals, directed to any Peace Officer to levy the amount of such penalty by seizure and sale of any goods of the offender which may be found within the jurisdiction of such Justices or Magistrate: and if no such property shall be found within such jurisdiction, then the aforesaid Justices or Magistrate, by warrant under their hands and seals in the form of Schedule X to this Act annexed or to the like effect, may commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months where a pecuniary penalty of twenty-five dollars shall be imposed, and in the same proportion for any greater penalty which shall be imposed: Provided always, that in case it shall appear to such Justice of the Peace

Warrant of distress.

Commitment in default of distress.

Form of warrant of commitment.

Periods of imprisonment.

or Magistrate, by the confession of the offender or in any other manner, that he has no goods whereon to levy such distress, then and in every such case it shall be lawful for such Justices of the Peace or Magistrate, if they shall deem it fit, instead of issuing such warrant of distress, by warrant under their hands and seals in the form of Schedule Y to this Act annexed or to the like effect, to commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months where a pecuniary penalty of twenty-five dollars shall be imposed, and in the same proportion for any greater penalty which shall be imposed; Provided always, that in no case shall the term of imprisonment exceed two years.

Commitment without distress.

Warrant of commitment.

Commutation of penalties.

LV. All convictions under this Act may be in the form of Schedule Z to this Act annexed or to the like effect, and no conviction or order shall be quashed or set aside for want of from or otherwise, and no warrant of commitment shall be held void by reason of any defect therein: Provided it be alleged therein that the party charged has been convicted of the offence and to the punishment set out in the warrant of commitment: Provided there be a conviction as aforesaid to that effect, and no conviction or order under this Act shall be removed by *certiorari* or otherwise, into the Court of Judicature, except as next hereinafter mentioned.

Form of conviction.

Not to be quashed for formal defects, &c.

Certiorari.

LVI. If any person shall feel himself aggrieved by any adjudication made by such Justices of Peace or Magistrate of Police, such person shall, within one week from the day of the said adjudication, give notice in the form of Schedule AA to this Act annexed or to the like effect, to the Justices of the Peace or Magistrate who shall have adjudicated, and to the opposite party, of his intention to appeal, stating in such notice the grounds of appeal; whereupon the said Justices of the Peace or Magistrate shall cause a transcript of the proceedings, including the charge, the evidence, and the

Appeal.

Week's notice.

Grounds of appeal.

Transcript to be sent.

adjudication, conviction or order, to be drawn up in the form of Schedule BB to this Act annexed or to the like effect, and as soon as reasonably convenient to be transmitted, certified under their hands and seals, to the Court of Judicature at the Station:

to Court of Judicature.

Provided always, that no such proceedings in appeal shall be allowed till the person desiring to appeal shall have lodged a sum sufficient to cover the costs of preparing the transcript, not exceeding the sum of six cents per folio of ninety words contained in the said transcript, and shall have given security to the satisfaction of the said Justices of the Peace or Magistrate, in any sum not exceeding two hundred dollars, to answer for the costs of the said appeal, to be taxed by the proper Officer of the said Court of Judicature, and further security for the due payment of any penalty adjudicated or to be adjudicated in appeal against the person desiring to appeal: and provided further, that if any person desiring to appeal shall have been sentenced to imprisonment with or without hard labour, it shall be lawful for the said Justices of the Peace or Magistrate to have brought before them in custody such person by their order in form of Schedule CC to this Act annexed or to the like effect, under their hands and seals addressed to the Sheriff of the said Settlement, or to the Keeper of the Jail or House of Correction, or other place in which such person may be confined, who shall thereupon produce or cause to be brought before the said Justices of the Peace or Magistrate of Police the person required by the said order to be produced before them, and they shall admit such person to bail on good and sufficient security being given to their satisfaction for the surrender of such person after the hearing of the appeal to undergo his said sentence, or to pay his penalty and costs, or to be discharged: and if any person so bound over to appear shall not thereafter in pursuance of the terms of the bail-bond so appear and undergo the sentence or pay the penalty and costs required,

Deposit for costs of transcript.

Security for costs.

Security for judgment.

Respite of sentence.

Order to bring up persons in prison.

Bail.

Default of appearance

such recognizance may be forfeited by any Justices of the Peace or Magistrate of Police sitting at the said Court, and on such non-appearance being certified on the back of the said bail-bond, the amount thereof shall be levied on the goods and effects of the defaulter and his sureties in the manner provided by this Act for the levy of fines and penalties, and such security for costs or for the payment of any penalty shall be in the form of Schedule DD to this Act annexed or to the like effect.

Summary procedure.

Form of Security.

LVII. On the transmission of the said transcript, the said appeal shall be entered on the list of cases for trial on the civil side of the said Court, and shall be disposed of with the other business before the said Court, subject to such rules as to time and order of hearing as may from time to time be made by the Judges of the said Court. The Judges of the said Court shall give judgment in the said appeal after hearing the parties or their advocates or law agents, and may affirm or reverse or alter the adjudication of the said Justices of the Peace or Magistrate, with or without costs to be paid as shall be ordered by the said Judges, as justice may seem to require: Provided always, that the said Judges may order the witnesses examined or tendered for examination in the Police Court in the cases on either side, to be further examined if it shall appear to them to be necessary for the due determination of the appeal, and the Registrar of the said Court shall immediately on the determination of the said appeal certify under his hand and seal to the said Justices of the Peace or Magistrate, the judgment of the said Court on such appeal, whereupon the said Justices of the Peace or Magistrate shall forthwith put into execution the said judgment: Provided always, that no such adjudication shall be overruled or altered by reason of defect of form in the charge, evidence, or adjudication or other

Appeal to be entered on list.

Rules for hearing appeals.

Judgment of Court.

Costs.

Further evidence.

Registrar of Court to certify the judgment of Court.

Execution of judgment.

No appeal for mere defect of form.

proceeding, nor otherwise than on the merits of the case, so as substantial justice shall best be attainable and without reference to form.

Seizures not to be enquired into.

LVIII. On any trial before any Justices of the Peace or Magistrate, and in any proceedings on appeal in the Court of Judicature, relating in any of the above cases to any seizure of contraband articles under this Act, it shall be lawful for the Judges of the said Court and for the Justices of the Peace and Magistrate, and they are hereby respectively authorized and required, to proceed to trial and hearing of appeals on the merits of the case without reference to matters of form, and without enquiring into the matter or form of making any seizure.

Trials to be on merits.

Actions.

Limitation, three months.

LIX. All actions and prosecutions against any person, which may be lawfully brought for any thing done under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and in every such action, it shall be expressly alleged in the petition of complaint that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be nonsuited, or a verdict shall be given for the defendant.

Notice of action.

Malice.

Nonsuit.

Plea of general issue.

Evidence.

Tender of amends.

LX. The defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have

Payment into Court.

been paid into Court after such action brought, by or on behalf of the defendant, and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit or discontinue any such action, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Judgment for defendant.

Full costs.

Judgment for plaintiff.

Judge to certify for costs.

LXI. All permits required to be granted by the Registrar of Exports and Imports or any Farmer, and all licenses granted under this Act, shall be exempt from stamp duties.

Stamp duties.

LXII. Any person who shall counterfeit, erase, alter, or falsify any license authorized to be issued by this Act, or any permit required to be granted by this Act, or who shall alter or publish as true any such counterfeited, erased, altered or falsified license, knowing the same to be counterfeited, erased, altered or falsified, shall, on conviction thereof in the Court of Judicature, be punished by imprisonment for any period not exceeding five years, with or without hard labor, or in the discretion of the said Court shall be liable to a penalty not exceeding one thousand dollars.

Counterfeiting licenses and permits.

Penalty.

LXIII. The Schedules to this Act annexed, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act, and the several blank spaces in the said forms shall be filled up as required by the provisions of this Act relating thereto.

Schedules and forms to be read as part of Act.

Blanks in forms.

Interpretation of Words.

Interpretation Clause.

LXIV. *Clause* 1.—In this Act, unless there be something repugnant in the subject or context,—

"Local Government."

"Local Government" shall mean the Governor of the Settlement or other person performing the duties of Governor at the Station in which the Governor or such other person may then be resident, and the Resident Councillors or other persons performing the duties of Resident Councillors at the Stations in which the Governor or such other person may not then be residing.

"Settlement."

"Settlement" shall mean the Settlement of Prince of Wales' Island, Singapore and Malacca, with the places now or at any time hereafter to be subordinate or attached thereto, and shall include such portion of the sea along the shores of the said Settlement as may be within the local limits of the jurisdiction of the Court of Judicature of the said Settlement.

"Station."

"Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore and Malacca, and the places now or at any time hereafter to be subordinate or attached thereto, and shall include such portion of the sea along the shores of the said Station as is within the local limits of the jurisdiction of the Court of Judicature of the said Settlement.

"Court of Judicature."

"Court of Judicature" shall mean Her Majesty's Court of Judicature of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the several Divisions thereof.

"Opium."

"Opium" shall mean any kind of Opium not prepared for smoking, chewing or eating.

"Chandoo."

"Chandoo" shall mean any preparation of Opium or any preparation in which Opium forms an ingredient, used for smoking, chewing or eating.

"Chandoo Dross."

"Chandoo Dross" shall mean Chandoo already used for smoking.

"Spirituous Liquors."

"Spirituous Liquors" shall include spirits, or distilled waters intended for human consumption, and any liqueur or compound of spirits with fruit, sugar, honey or other sweet or bitter principle, or vegetable production.

"Toddy."

"Toddy" shall mean the juice prepared or unprepared of the cocoanut or other tree of the palm species.

"Bhang."

"Bhang" shall mean any intoxicating drug or vegetable production other than Opium used for smoking or eating as a stimulant or narcotic in its raw or prepared state, except medical preparations kept and administered by medical practitioners as medicines for the cure or relief of diseased persons.

"Importer."

"Importer" shall mean the person who shall take or receive from on board any ship, whether lying within or without the jurisdiction of the Court of Judicature, and who shall bring or cause to be brought to land within the Settlement of Prince of Wales' Island, Singapore and Malacca, any articles subject to duty or restrictions under this Act, and shall also include any person who shall bring or cause to be brought into the said Settlement any such articles by land.

"Chest of Opium."

"Chest of Opium" shall mean the package with the Opium contained therein, such as it is usually imported by merchants in the said Settlement.

"Ship."

"Ship" shall include every kind of vessel used for the conveyance of persons or things on fresh or salt water.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

Short title.

LXV. This Act may be cited for all purposes as "The Straits' Excise Act of 1866."

SCHEDULE.

A.

EXCISE REVENUE.

Farmer's Contract.

(*Farmer's name*) having been declared to be the Farmer of for the term commencing on the day of 18 and ending on the day of 18 , and he having offered as sureties for the due fulfilment of the terms of this Contract (*or* and certain real [*or* personal] estate having been assigned by him to the Local Government as security by way of mortgage, under the provisions of the Straits' Excise Act of 1866, by the deed annexed to this Contract, *or* Dollars having been lodged in the local treasury by the said Farmer as a deposit.) This Contract between the Local Government and the said Farmer and his sureties and witnesseth that all the rights and privileges of Farmer of under the provisions of the Straits' Excise Act of 1866 are hereby vested in the said for the aforesaid term.

The said (*Farmer*) and his sureties and for themselves, their executors, administrators and assigns, do hereby covenant and agree to pay to the Local Government, without demand, the sum of dollars monthly, on the last day of every month, commencing on the day of the month of 18 , and ending on the day of the month of 18 , as the rent of the said Farm, and further covenant and agree that the said Farmer shall well and faithfully observe, perform and fulfil the several provisions, conditions and stipulations contained in the said Act, so far as they relate to the management of the said Farm, or impose any duty

or obligation on the said Farmer, in as full and ample a manner as if the said provisions, conditions and stipulations had been incorporated in this Contract: And they further covenant and agree, that if the said rent or any part thereof be unpaid for the space of days after any of the days on which the same ought to have been paid, or in case of the breach of any of the provisions, conditions and stipulations of the said Act so far as they relate to the said Farm or the said Farmer, then and in either of such cases, it shall be lawful for the Local Government to determine and put an end to the said rights and privileges, and dispose of the same to other persons, and in the event of any loss arising therefrom, they further covenant and agree to make good the said loss to the Local Government: And they further covenant and agree that the said Farmer will make over to such person as may be invested with the rights and privileges of the Farm at for the term next after the term herein provided for, all the stock of exciseable articles, and the machinery and vessels required for preparing such exciseable articles in the possession of the said Farmer at the end of the term herein provided for, at the marketable value of the said articles, machinery and vessels, and in the event of any difference arising as to the nature and quantity of articles, machinery and vessels so to be made over and the prices thereof, such difference shall be determined by three arbitrators, one to be appointed by the said Farmer, one by the person in whom the said rights and privileges may be vested or intended to be vested for the next succeeding term, and one by the Local Government, and the award of such arbitrators or a majority of them shall be final, and the said arbitration or other settlement shall be held at such time before the end of the said term as to the Local Government may seem reasonable. It is further covenanted and agreed that all deposits as well as all securities given by them shall be held by the Local Government till all questions between the said Farmer and his sureties and and the Local Government shall be finally disposed of, including matters relating to the transfer of the aforesaid exciseable articles, machinery and vessels, to the incoming Farmer, and it shall be lawful for the Local Government on breach of any of the covenants in this Contract, such breach and the amount of penalty therefor to be held and proved by indorsement on the back of this Contract by the Local Government, stating the breach and the amount of penalty therefor, to sell and dispose of all or any of the deposits or securities made and given under this Contract, without notice to the said Farmer, or his sureties and and to nominate an Officer of the Local Government to execute all con-

veyances necessary for the transfer of any such securities, and out of the proceeds of such sale and disposition to satisfy and discharge any claims under this Contract against the said Farmer, and his sureties . and , when the Local Government, after satisfying all such claims, shall return to the said Farmer the said deposits or so much thereof as shall remain, and shall surrender all securities held, or the remainder of such securities or of proceeds of sale of such securities, and this Contract shall be at an end: And it is further covenanted and agreed, that the rights and privileges hereby vested in the Farmer, shall not be assigned to any other person without the consent of the Local Government, and that such assignment, if so allowed, shall not be deemed to relieve the said Farmer and his sureties and from any liability under this Contract, and the said Farmer and his sureties, and do hereby bind themselves and any one or two of them, their and any one or two of their executors, administrators and assigns, in the sum of dollars for the due fulfilment by the said Farmer of this Contract.

Signed, *Sealed*, and *Delivered* at
this day of 18 by
for the Local Government,
and by Farmer and
sureties
In the presence of

STRAITS EXCISE REVENUE.

Form of Mortgage.

I do hereby assign to the Local Government as security for the due fulfilment of the terms of the Contract for the Farm at for the term commencing the first day of 18 and ending the thirtieth day of 18 under the Straits' Excise Act of 1866, all my right, title and interest in the land situate in the District of in and described in Government grant, or lease No. dated the day of 18 and estimated to contain and do hereby make over to the Local Government the title deeds of the said land. In the event of any breach of the covenants in the said Contract by the Farmer, no proof of which breach or of the amount of penalties, forfeitures, damages and losses

arising therefrom shall be required further than the indorsement of the same on the back of the said Contract by the Chief Civil Authority in the said Settlement, I do hereby for myself, my executors, administrators and assigns authorize the Local Government to sell or otherwise dispose of the land hereby mortgaged, and out of the proceeds thereof to defray any penalties, forfeitures, damages and losses, or other liability to which by the said indorsement the said Farmer shall have been declared liable, and the balance, if any, to be paid to me, my executors, administrators or assigns. And the Local Government is hereby authorized to appoint an Officer of Government to execute for me, my executors, administrators and assigns all conveyances and instruments necessary for the sale or transfer of the said lands.

In Witness whereof, I have hereunto set my hand and seal this day of in the year 18 .

Signed, Sealed, and *Delivered,*
In the presence of }

B.

EXCISE IMPORTS.

Bill of Specifications under Sections 6—11—15.

To the Registrar of Imports and Exports at

SIR,

Please to issue a permit to land from the ship (chests of Opium *or* gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles, number and description of case or package*— Chandoo Opium Dross package) within the hours from till on the day of 18 to be stored in the (godown, shop *or* house) of No. in Street at *or* the Office of Registrar of Imports and Exports.

Yours, &c.

Date

Importer.

EXCISE IMPORTS PERMIT.

Under Sections 6—11—15.

(is) authorized within the hours from till on the day of 18, to land from the Ship (chests of Opium *or* gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles and description of case or package* Chandoo Opium Dross package) and (is) required to store the same in the (godown, shop *or* house) of No. in Street at *or* the Office of Registrar of Imports and Exports at

Registrar of Imports and Exports.

Date

A copy of this permit has been served on me.

(*Opium*) Farmer

18

Singapore,

D.

EXCISE REVENUE—OPIUM.

Notice to remove under Section 6.

To the Registrar of Imports and Exports at

SIR,

Please to issue a permit for the removal of chests of Opium (*marks and number*) imported from by and stored under your permit dated the day of 18 in the godown, &c., of situate at in and afterwards removed to the godown, &c., of and thence to the godown, &c., of

(*as often as may be necessary to set out to the several removals*)

from the godown, &c., of

at

to the godown, &c., of

situate at in

Yours, &c.,

Date

E.

EXCISE EXPORTS.

Bill of Particulars under Sections 6—11—12—18.

To the Registrar of Imports and Exports at

SIR,

Please to issue a permit to export by ship

(chests of Opium *or* gallons

of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles—number and description of case or package* Opium, Chandoo

Opium Dross,) within the hours from till

on the day of 18

to (*destination*) the said

having been purchased by me from in whose

(godown, shop *or* house) it is now stored (*or* the same being now stored

in my godown, shop *or* house) at the same being

now stored in your office, and sold by me to who is

desirous of exporting. Yours, &c.,

Date

Exporter.

F.

EXCISE EXPORTS PERMIT.

Under Sections 6—11—12—18.

(is) authorized

to export by ship

to (chests

A copy of this permit has been served on me.

Farmer.

of Opium *or* gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles*—*number and description of case or package* Chandoo Opium Dross) within the hours from till on the day of 18 , the said ( ) having been purchased by the exporter from the same being now stored in the (godown, shop *or* house of situated at *or* the same being now stored in my office) and sold to who is required to export in terms of this permit.

Date

Registrar of Imports and Exports.

Date

G.

FORM OF SEARCH WARRANT.

Under Sections 8—23—30.

To the (Opium) Farmer or any Revenue Officer duly appointed under the Straits' Excise Act of 1866 *or any Police Officer.*

To Wit. Whereas it appears to me, A B, one of Her Majesty's Justices of the Peace for the said Station, by the information on oath of that he hath god reason to believe and doth believe that (Opium *or* Spirituous Liquors) have been removed contrary to the provisions of the Straits' Excise Act of 1866 from the (godown, store *or* house) of situated in (*or* that Toddy *or* Bhang is now being grown and prepared contrary to the provisions of the said Act, in the land of situated at).

These are, therefore, to authorize and require you to enter in the day-time with a Police Officer of this Station, of the rank of Inspector at least, the said

and therein

take an account in writing of all (Opium *or* Spirituous Liquors) found in the said (godown, store *or* house, *or* of all trees used for producing Toddy and measure the quantity of land used for the growth of Bhang), and hereafter bring before me or some other of Her Majesty's Justices of the Peace at the said Station, at the Police Court at the said account in writing within days from the date hereof, and herein fail not.

Given under my hand and seal, at this day of 18

(Signed)

Justice of the Peace.

H.

EXCISE REVENUE LICENSE.

Under Section 33.

(1st Class.)

Keeper of Hotel, situated in at duly licensed under Act of is hereby authorized under the provisions of the Straits' Excise Act of 1866 to sell Spirituous Liquors in the said (Hotel), so that the same be used and consumed on the premises.

Commissioner of Police.

Date

A fee of dollars (100) has been paid for this license.

(Signed)

Commissioner of Police.

I.

EXCISE SPIRITUOUS LIQUORS.

Declaration by Importer under Section 15.

To the Spirit Farmer at

Take Notice, that of the quantity of landed by me on the at from the Ship and now stored in I hereby

declare gallons bottles to be intended for use where stored and tender to you the sum of dollars, being for the duty payable on the same under the Straits' Excise Act of 1866.

Date *Importer*

K.

EXCISE SPIRITS.

Notice to remove under Section 17.

To the Spirit Farmer at

Take Notice, that I desire to remove under Section 17 of the Straits' Excise Act of 1866 gallons bottles of contained in imported by on the day of 18 ex ship and now stored in at and I hereby tender to you payment of being the amount of duty chargeable on the same, and require from you a permit for the removal of the same from ( ) to the godown, shop *or* house of situated at (*or if duty already paid*) the duty on the said having been already paid by the Importer (*giving the name.*)

Yours, &c.,

Date *Importer.*

L.

EXCISE SPIRITS.

Permit to remove under Section 17.

(is) authorized to remove under Section 17 of the Straits' Excise Act of 1866, from ( ) to ( ) gallons bottles of contained in (*package*) imported by on the day of 18 ex ship and now stored in at and I acknowledge to have

received from the sum of dollars
being the amount of duty chargeable on the same.
Date *Spirit Farmer.*

M.

EXCISE SPIRITS.

Notice to remove under Section 19.

To the Spirit Farmer at

SIR,

Please to issue your permit for the removal under Section 20 of the Straits' Excise Act of 1866, of gallons, &c., cases containing bottles, &c., of (*name of Spirituous Liquors*) imported and stored by in the godown of at and thence removed duty paid under your permit, dated the day of 18 to the godown, &c., of at (*state any farther removals and dates of Farmer's permits*) where the said now lies, to the godown, &c. of at

Yours, &c.,

Date

N.

EXCISE SPIRITS.

Permit to remove under Section 19.

is hereby authorized to remove (*state as in application*) from the godown, &c., of at to the godown, &c., of at

Duty on the said Spirituous Liquors having been paid by

Spirit Farmer.

Date

O.

EXCISE SPIRITS.

Order to remove under Section 21.

TO WIT. { Whereas application has been made to me, one of Her Majesty's Justices of the Peace for the said Station, for an order to remove (*here state fully particulars*

as required by Section 20) by
(*name of applicant*) and whereas
security to my satisfaction has been given by the said
(*applicant*) for the amount of duty chargeable on the quantity
of Spirituous Liquors intended to be removed, These are,
therefore, to authorize the removal of (*here state particulars*)
now stored in the godown of
at to the godown of at
there to be kept till further authorized to be removed under
the provisions of the Straits' Excise Act of 1866.

Given under my hand and seal, at this
day of 18 .

Justice of the Peace.

P.

EXCISE SPIRITUOUS LIQUORS.

Receipt by Spirit Farmer under Section 22.

I hereby acknowledge to have received from
the sum of dollars being the sum payable as duty
under the Strait's Excise Act of 1866, for gallons
bottles of declared to be for
use where stored by the said in the godown of
at

Date

Spirit Farmer.

Q.

EXCISE REVENUE LICENSE.

Under Section 34.

is hereby
authorized to keep a licensed shop for the sale of (Chandoo,
&c., Spirituous Liquors *or* Toddy and Bhang) at (No.)
Street Town (*or* in the village *or*
district of) subject to the rules and regulations in that behalf,
which rules and regulations have been read and explained to
the said

Given at this day
of 18

Commissioner of Police.

A fee of dollars has been received for this license.

Commissioner of Police.

R.

EXCISE REVENUE.

Appointment of Revenue Officer under Section 46.

of in

is hereby, with the sanction of the Local Government, appointed to be a Revenue Officer under the Straits' Excise Act of 1866, and is hereby vested with all the rights, powers and immunities of such office under the provisions of the said Act.

Date *Commissioner of Police.*

S.

FORM OF SEARCH WARRANT.

Under Section 50.

To the Peace Officer or Officers within this Settlement, or to the Revenue Officer or Officers appointed according to the provisions of the Straits' Excise Act of 1866.

To Wit. { Whereas it appears to me, *A. B.*, one of Her Majesty's Justices of the Peace for the said *Station*, by the information on oath of *C. D.*, that he has good cause to believe and doth believe that articles subject to forfeiture under the provisions of the Straits' Excise Act of 1866, are concealed or deposited in the *dwelling-house, shop, or other building or place of E F, or on board the ship* now lying or being within the limits of the jurisdiction of the Court of Judicature of the said Settlement, These are, therefore, in the name of our said Lady the Queen, to authorize and require you, with necessary and proper assistants, to enter in the day-time into the said *dwelling-house, shop, or other building or place of the said E F, or on board the ship* now lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settlement, and there diligently to search for the said articles, and also to authorize and require you, if a Peace Officer, and, if not, in the presence of a Peace Officer, to enter in the night-time (that is to say, at any time between the hours of six o'clock in the evening and six in the following morning) in the said *dwelling-house, shop, or other building or place of the said E F, or on board the ship* lying or being within the limits of the jurisdiction of the Court of Judicature in

the said Settlement, and there diligently search, for the said articles, and if the same shall be found upon such search, that you seize and take possession of the said articles so found, and also the body or bodies of any person or persons being in the said *dwelling-house, shop, or other building or place, or on board the ship* lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settlement, in whose possession, custody or control any such articles may be found, or whom you may have good and sufficient reason to suspect had concealed or deposited therein any such article, and to bring the said articles and person or persons before me the said *A B* or some other of the Justices of our said Lady the Queen, assigned to keep the peace in the Settlement aforesaid, to be disposed of and dealt with according to law.

Given under my hand and seal at in the year

(Signed) *A B,*

Justice of the Peace.

T.

EXCISE REVENUE.

Recognizance under Section 51.

To Wit. Be it remembered that (*person charged*) and (*sureties*) appeared before the undersigned, one of Her Majesty's Justices of the Peace for this *Station*, and acknowledged themselves severally as well as jointly to be indebted to the Commissioner of Police at this *Station*, or his successor in office, in the sum of dollars to be levied in a summary manner, by distress and sale of the goods and effects of the said severally as well as jointly under the provisions of Section 51 of the Straits' Excise Act of 1866.

The condition of the above recognizance is such, that if the above bounden shall be and appear at the Police Court at on . next, the day of 18 to be further dealt with according to law, and shall not depart therefrom without leave till lawfully discharged or convicted, then this recognizance to be void and of no effect, otherwise to stand in full force and virtue.

Taken and acknowledged before me,

Date *Justice of the Peace.*

V.

WARRANT OF COMMITMENT.

Under Section 51 of the Straits' Excise Act of 1866.

To Wit. { Whereas and have been brought before me, one of Her Majesty's Justices of the Peace for the Station by Revenue Officer appointed *or* by (*a Police Officer*) charged with (*here state charge*).

And whereas it appears to me that there is good reason to believe that an offence has been committed, for which the said ought to answer at the Police Court: and whereas the said has not found bail to my satisfaction to appear to answer the said charge:

These are therefore, to authorize and require (*the said Revenue Officer*) to take the said (*prisoners*) to the principal Police Lock-up at there to be detained till (he) shall be brought before the Justices of the Peace, at the Police Court at to answer to the charge there to be preferred against (him) unless (he) shall before that time give bail to the satisfaction of any of Her Majesty's Justices of the Peace at this Station, for (his) appearance at the Police Court as aforesaid.

Witness my hand and seal, this day of 18 .

Justice of the Peace.

W.

FORM OF DISTRESS WARRANT.

Under Section 54.

To the Peace Officers, or to any Peace Officer of the said Station.

To Wit. { Whereas *A B*, of has been on the day of 18 duly convicted before us (*C D* and *E F*, two of Her Majesty's Justices of the Peace, *or G H*, Magistrate of Police) for the said *Station* of the offence of against the form of the Straits' Excise Act of 1866 in that case made and provided, and was thereupon adjudged by us that he the said *A B* had forfeited the sum of

dollars for the offence aforesaid: and whereas the said *A B* being required to pay the said sum hath not paid the same, but therein has made default: These are to command you to distrain the goods and chattels of the said *A B* which may be found within this *Station*, to the amount of the said sum and such further sum as may be sufficient to defray the charges of making such distress, and if within five days next after such distress the said sum, together with the reasonable charges for taking and keeping the said distress, shall not be paid, to sell the said goods and chatels, and having paid out of the money arising by such sale the said sum of dollars to us, to be applied according to the provisions of the said Act, and having deducted the necessary charges for taking, keeping and selling the said distress, to return the overplus, if any, on demand to the person whom you shall find in possession of the said goods and chattels and if no such distress can be made, that then you certify the same unto us, to the end that such further proceedings may be had thereon as to the law doth appertain.

Given under our hands and seals, this day of 18 .

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

X.

FORM OF COMMITMENT WHEN IT APPEARS THAT THE OFFENDER HAS NO GOODS WHEREON TO LEVY A DISTRESS.

Under Section 54.

To the Peace Officers, or any Peace Officer, and Keeper of the Prison of the said Station, or Keeper of the House of Correction at the said Station.

To Wit. { Whereas *A B* of was on the day of 18 , duly convicted before us *C D* and *E F*, two of Her Majesty's Justices of the Peace or *G H*, Magistrate of Police for the said *Station*, of the offence of against the form of the Straits' Excise Act of 1866 in that case made and provided, and was thereupon adjudg-

ed by us, that he the said *A B* had forfeited the sum of dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for *with hard labor:* and whereas the said *A B* hath not paid the said sum, but therein hath made default, and it appears to us that the said *A B* has no goods or chattels whereon to levy a distress: These are, therefore, to command you, the said Peace Officers or Peace Officer, to take the said *A B* and him safely to convey to the prison of the said *Station*, and there to deliver him to the said Keeper thereof together with this precept; And we do hereby command you, the said Keeper of the said prison, to receive the said *A B* into the said prison, thereto imprison him *with hard labor* for the space of

Given under our hands and seals, at
this day of
18 .

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

Y.

FORM OF COMMITMENT.

Under Section 54.

To the Peace Officers, or any Peace Officer, and the Keeper of the Prison of the said Station, or to the Keeper of the House of Correction at the said Station.

To Wit. Whereas *A B* of was on the day of 18 , duly convicted before us (*C D* and *E F*, two of the Justices of the Peace, or *G H*, Magistrate of Police) for the said *Station*, of the offence of against the form of the Straits' Excise Act of 1866 in that case made and provided, and was thereupon adjudged by us that he the said *A B* had forfeited the sum of dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for *with hard labor:* And whereas we have issued a distress warrant to levy the amount of the said sum by seizure and sale of the goods and chattels of the said *A B* within our jurisdiction,

and no goods and chattels of the said *A B* have been found within such jurisdiction, and the said *A B* hath not yet paid the said sum, but therein hath made default: These are, therefore, to command you, the said Peace Officers or Peace Officer, to take the said *A B* and him safely to convey to the prison of the said *Station*, and there to deliver him to the said Keeper thereof together with this precept: And we do hereby command you, the said Keeper of the said prison, to receive the said *A B* into the said prison, there to imprison him *with hard labor* for the space of

Given under our hands and seals at this day of 18

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

Z.

FORM OF CONVICTION.

Under Section 55.

To Wit. { Be it remembered that, on the day of in the year 18 , *A B* is found guilty before us, *C D* and *E F*, two of the Justices of the Peace, *or G H*, Magistrate of Police for the said *Station*, of the offence of

against the form of the Straits' Excise Act of 1866 in that case made and provided: And we do hereby convict him of the offence aforesaid, and do adjudge that he the said *A B* hath forfeited the sum of dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for

with hard labor.

Given under our hands and seals, at the day and year first mentioned.

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

AA.

EXCISE REVENUE.

Notice of Appeal under Section 56.

IN THE POLICE COURT AT

In the case of
The (*Opium*) Farmer,
Complainant,
versus
M N,
Defendant.

To *A B*, Esq., and *C D*, Esq., Her Majesty's Justices of the Peace at
or E F, Esq., Magistrte of Police at

Take notice that I intend to appeal to the Court of Judicature against your adjudication in the above-named case on the following grounds :—that is to say (*here state grounds of appeal in full.*)

Yours, &c.,

Date *Complainant or Defendant.*

BB

BB.

EXCISE REVENUE APPEAL.

Under Section 56.

IN THE COURT OF JUDICATURE OF PRINCE OF WALES' ISLAND, SINGAPORE AND MALACCA.

Division of

In the matter of
The (*Opium*) Farmer of
versus

Charge in full (*as in Charge or Summons*). Mr. appeared as law agent for the Complainant, and Mr. for the Defendant (*as the case may be*).

The case was called on in the Police Court in on the day of 18 before (Esq., a Magistrate of Police), *or* two of Her Majesty's Justices of the Peace for the Station, when the Defendant pleaded not guilty, and the following evidence was taken on oath for the prosecution :—(*here [illegible] evidence for prosecution*).

The Defendant contended (*here state shortly the points of defence made by or for the Defendant*).

The following evidence was taken for the Defendant:—(*here copy evidence for defence*).

For the Complainant it was contended that (*here state shortly the argument in support of the Complainant's case*).

The following adjudication was then made by the undersigned:—(*here state decision*).

On the day of 18 (the Complainant *or* Defendant, *as the case may be*), gave notice to the undersigned of (his) intention to appeal and (has) lodged with (us) the sum of dollars for the copying of this transcript, and (has) given security to (my) satisfaction in the sum of dollars to answer the costs of this appeal, and in the further sum of dollars (*the amount of penalty*) for the due enforcement of the penalty awarded by (me) or to be awarded by the Court of Judicature, if necessary.

This transcript is therefore in terms of Section 56 of the Straits' Excise Act of 1866 transmitted to the Registrar of Her Majesty's Court of Judicature.

Given under (my) hand and seal, at this day of 18 .

Magistrate of Police,
or
Two Justices of the Peace.

CC.

EXCISE REVENUE.

Order to produce person confined under Section 56.

To the Sheriff of Prince of Wales' Island, Singapore and Malacca, or to the Keeper of the House of Correction at

These are to require you to bring before us or such other Justices of the Peace or Magistrate of Police as may be sitting at the Police Court, on next, the day of 18 the body of (*prisoner's name*) now in your custody, under warrant of commitment dated the day of for an offence against the provisions of the Straits' Excise Act of 1866.

Given under our hands and seals, at this day of 18

Justice of the Peace, &c.

DD.

EXCISE REVENUE.

Recognizance of Bail under Section 56.

(*Defendant's name and sureties' names*) appear before us, and acknowledge themselves severally as well as jointly to be indebted to the Commissioner of Police at this Station, or his successor in office, in the sum of dollars for costs in an appeal by him forwarded under the Straits' Excise Act of 1866, and a further sum of dollars to answer a penalty adjudicated against the first above-named to be levied in a summary manner, by distress and sale of the goods and effects of the said severally as well as jointly under the provisions of Section 56 of the Strait' Excise Act of 1866.

The condition of this recognizance is such, that if the above bounden (*Defendant*) shall, if ordered thereto on appeal by the Court of Judicature, pay the amount of taxed costs of the said appeal (and shall further appear at this Police Court within two days after the hearing and decision of the said Court of Judicature on the said appeal) and surrender himself to undergo any sentence or pay any penalty which may be ordered by the said Court of Judicature on appeal, then this recognizance to be void and of no effect, otherwise to stand in full force and effect.

Taken and acknowledged at the Police Court at .

this day of 18 .

Justice of the Peace, &c.